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*Flex your power!  
Be energy efficient!*

August 26, 2009

04-SF-101,1-9.2/9.8, 6.8/7.1  
04-163734  
ACBRNH-X075(027)N

Addendum No. 4

Dear Contractor:

This addendum is being issued to the contract for CONSTRUCTION ON STATE HIGHWAY IN THE CITY AND COUNTY OF SAN FRANCISCO ON ROUTE 101 FROM 0.3 MILE SOUTH TO 0.4 MILE NORTH OF ROUTE 101/1 SEPARATION AND ON ROUTE 1 FROM RUCKMAN AVENUE UNDERCROSSING TO ROUTE 101/1 SEPARATION.

Submit bids for this work with the understanding and full consideration of this addendum. The revisions declared in this addendum are an essential part of the contract.

Bids for this work will be opened on Thursday, September 24, 2009.

This addendum is being issued to revise the Notice to Bidders and Special Provisions, the Bid Book, and provide a copy of a portion of the Information Handout.

In the Special Provisions, Section 2-1.03, "PREBID QUALIFICATION QUESTIONNAIRE," is deleted.

In the Special Provisions, Section 2-1.035, "PREBID QUALIFICATION REVIEW," is deleted.

In the Special Provisions, Section 5-1.09, "SUPPLEMENTAL PROJECT INFORMATION," in the table entry for items "Included in the Information Handout" "Statewide Rolling Owner Controlled Insurance Program, Qualification Questionnaire (QQ)" and "Rolling Owner Controlled Insurance Program (ROCIP) Manual" are deleted.

In the Special Provisions, Section 5-1.09, "SUPPLEMENTAL PROJECT INFORMATION," the table entry for items "Included in the Information Handout" "OCIP Manual – Prebid Version" is added.

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In the Special Provisions, Section 5-1.19, "ROLLING OWNER CONTROLLED INSURANCE PROGRAM (ROCIP)," is replaced with Section 5-1.19, "OWNER CONTROLLED INSURANCE PROGRAM (OCIP)," as attached.

In the Special Provisions, Section 10-1.38, "TIME RELATED OVERHEAD," the fourth paragraph is revised as follows:

"Time-related overhead shall consist of those overhead costs, including field and home office overhead, that are in proportion to the time required to complete the work. Time-related overhead shall not include costs that are not related to time, including but not limited to, mobilization, licenses, permits, other charges incurred only once during the contract, and costs for insurance coverage provided by OCIP as primary insurance for work performed at the job site as specified in "Owner Controlled Insurance Program (OCIP)" of these special provisions. Time-related overhead shall not apply to subcontractors of any tier, suppliers, fabricators, manufacturers, or other parties associated with the Contractor."

In the Special Provisions, Section 10-1.78, "CONCRETE STRUCTURES," subsection "MEASUREMENT AND PAYMENT," the fourth paragraph is deleted.

In the Bid Book, the "PREBID QUALIFICATION QUESTIONNAIRE (PBQQ) TO BE COMPLETED BY PROSPECTIVE BIDDER" is deleted.

In the Information Handout, the "Statewide Rolling Owner Controlled Insurance Program, Qualification Questionnaire (QQ)" and "Rolling Owner Controlled Insurance Program (ROCIP) Manual" are deleted.

To Bid book holders:

Attached is a copy of the "OCIP MANUAL Prebid Version" which is added to the Information Handout.

Inquiries or questions in regard to this addendum must be communicated as a bidder inquiry and must be made as noted in the Notice to Bidders section of the Notice to Bidders and Special Provisions.

Indicate receipt of this addendum by filling in the number of this addendum in the space provided on the signature page of the Bid book.

Submit bids in the Bid book you now possess. Holders who have already mailed their book will be contacted to arrange for the return of their book.

Inform subcontractors and suppliers as necessary.

This addendum and attachments are available for the Contractors' download on the Web site:

**[http://www.dot.ca.gov/hq/esc/oe/project\\_ads\\_addenda/04/04-163734](http://www.dot.ca.gov/hq/esc/oe/project_ads_addenda/04/04-163734)**

If you are not a Bid book holder, but request a book to bid on this project, you must comply with the requirements of this letter before submitting your bid.

Sincerely,

ORIGINAL SIGNED BY

REBECCA D. HARNAGEL  
Chief, Office of Plans, Specifications & Estimates  
Office Engineer  
Division of Engineering Services

Attachments

## **5-1.19 OWNER CONTROLLED INSURANCE PROGRAM (OCIP)**

### **GENERAL**

Section 7-1.12B, "Insurance," of the Standard Specifications does not apply except as otherwise stated in these special provisions. References to the insurance requirements in Section 7-1.12, "Indemnification and Insurance," of the Standard Specifications shall be interpreted as references to "Owner Controlled Insurance Program (OCIP)" of these special provisions.

The Department has elected to implement an Owner Controlled Insurance Program (OCIP). The Department will administer the OCIP with the assistance of an OCIP Administrator.

OCIP is a series of insurance policies issued by one or more insurance companies to provide certain types of coverages for the Contractor and eligible subcontractors of all tiers. These coverages include workers' compensation, general liability, and excess liability. For this OCIP, coverages shall also include Contractor's pollution liability.

OCIP will include completed operations coverage. OCIP does not prohibit participants from purchasing any additional liability insurance. OCIP does not include surety insurance.

The "Owner Controlled Insurance Program (OCIP) Manual," describes the program and provides guidelines for participation in OCIP. This manual is referred to in these special provisions as the OCIP Manual and is incorporated by reference into the contract. The OCIP Manual is available for inspection at the District Office as specified in "Supplemental Project Information" of these special provisions. In the event of any conflict or discrepancy between any of the documents, these special provisions supersede the OCIP Manual or other program documents other than the OCIP insurance policies issued in accordance with these special provisions.

Nothing in the contract is intended to establish a standard of care owed to any member of the public or to extend to the public the status of a third-party beneficiary for any of the insurance described in these specifications. OCIP requirements contained in this section "Owner Controlled Insurance Program (OCIP)," do not create any contractual relationship between the subcontractors and the Department. The Contractor shall be responsible for compliance with requirements of this section including compliance by its enrolled subcontractors and by its excluded subcontractors of all tiers.

Changes to any OCIP requirement or procedure shall be approved by the Department. No Contractor or subcontractor has the authority to change any OCIP requirements or procedures.

### **ELIGIBILITY AND ENROLLMENT IN OCIP**

The Contractor and each eligible subcontractor shall be enrolled in OCIP before starting work on the job site by submitting CT OCIP Form 1, "OCIP Enrollment Form."

The OCIP covers construction activities at the job site. Eligible Contractors and subcontractors are contractors who provide direct labor at the job site. Temporary labor services and employee leasing companies are to be treated as eligible contractors if the services provided are construction activities at the job site. The Contractor and each eligible subcontractor shall follow the enrollment procedures shown in the OCIP Manual.

Enrolled contractors are contractors who have completed the enrollment procedures and received evidence of OCIP insurance.

Excluded subcontractors include:

1. Architects, engineers, surveyors, soil testing companies, and their consultants
2. Hazardous waste transport companies
3. Suppliers, vendors, and material dealers that do not perform construction activities at the job site or subcontract installation
4. Guard services and non-construction janitorial services
5. Truckers including trucking to the project where delivery is the only scope of work performed, haulers, drivers, and others who merely transport, pick up, deliver or carry materials, personnel, parts, and equipment to or from the job site
6. Any other parties the Department elects to exclude from OCIP even if otherwise eligible

If an excluded subcontractor performs direct labor at the job site, it shall participate in the project safety program and comply with the requirements in "Project Safety" of these special provisions.

Excluded subcontractors are required to provide their own insurance according to requirements specified in "Contractor-Furnished Insurance," of these special provisions. OCIP insurance policies and OCIP coverages will not apply to excluded parties, even if such parties are erroneously enrolled in OCIP. The Department may exclude any subcontractor from enrollment in OCIP, even if it meets the requirements for eligibility as defined above.

The Contractor shall maintain its own insurance for coverages not provided under OCIP until contract acceptance. Subcontractors shall maintain their own insurance for coverages not provided under OCIP policies until completion of their work. Required coverage types and limits are specified in "Contractor-Furnished Insurance" of these special provisions. These are minimum requirements and are not intended to limit either the amount of insurance available to the Department as an additional insured nor to limit the obligations of the Contractor and subcontractors under the indemnity provisions of Section 7-1.12, "Indemnification and Insurance," of the Standard Specifications. Before beginning work, the Contractor shall furnish the Engineer documents showing that all required insurance is in full force.

The OCIP insurance company reserves the right to reject late OCIP enrollments. If there have been losses in a period during which a subcontractor delayed its enrollment, OCIP will not furnish coverage to the subcontractor for such losses.

### **INSURANCE PROVIDED UNDER OCIP**

Under OCIP, the Department provides general liability, including 10-years of completed operations coverage, excess liability, and workers' compensation, and contractor pollution liability insurance covering work performed by enrolled contractors.

The Department's election to use OCIP does not constitute any representation by the Department with respect to the adequacy of the insurance to protect the Contractor or its subcontractors against all obligations imposed by law or by this contract. The coverage, as with all insurance, is limited in scope and may not include every form of insurance protection the Contractor or its subcontractors may deem necessary. The Contractor agrees that the Department and the OCIP Administrator are not agents, partners, or guarantors of the OCIP insurer and that the Department is not responsible for any claims or disputes between or among the Contractor, the subcontractors, and any OCIP insurer.

In addition to any insurance provided under OCIP, all contractors are responsible for providing certain insurance as specified in "Contractor-Furnished Insurance" of these special provisions. It is the responsibility of the Contractor and each subcontractor to discuss OCIP with their insurance agents, brokers, or consultants, and verify if any changes or additional coverages are required.

Coverage under OCIP applies to construction activities under this contract performed at the job site. For purposes of OCIP, job site is defined as the areas within the boundaries of the project. Areas adjacent to or nearby where incidental operations are performed may be covered, but only if they are solely dedicated to contract work and reported to the OCIP Administrator and the OCIP Administrator has confirmed that they are covered.

Unless approved by the Engineer and accepted and endorsed on the policy by the insurer, off-site locations are not covered under OCIP even if the site is utilized as a batch plant dedicated to the project or operations are for fabrication of materials to be used at the job site or training of apprentices. Off-site locations include the regularly established workplace, plant, factory, office, shop, warehouse, yard or other property of Contractor or any subcontractor.

Off-site operations of an enrolled contractor or subcontractor, including product manufacturing or product assembling, may be covered if the Contractor requests coverage for specified operations and the operations are:

1. Solely dedicated to the performance of the contracted work
2. Approved in writing by Department
3. Approved by the OCIP insurer and endorsed onto the general liability and workers' compensation insurance policies
4. Acknowledged in writing by the OCIP Administrator

The Department assumes no obligation to provide insurance coverages other than those summarized above and set forth in the actual OCIP policies. The insurance provided under OCIP does not extend coverage for product liability to other parties such as vendors and suppliers, for any product manufactured, assembled, or worked on away from the job site.

The Contractor and all eligible subcontractors of any tier will be enrolled in OCIP upon completion and acceptance of the forms included in the OCIP Enrollment Package.

### **OCIP Insurance Coverage**

OCIP provides the following insurance coverages for the enrolled contractor and subcontractors of all tiers as follows:

1. Workers Compensation Insurance is provided on a statutory basis. If there is an exposure of injury to the Contractor's employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage is included for such injuries or claims. Employer's liability insurance is provided in amounts not less than:

- 1.1 \$1,000,000 for each accident for bodily injury by accident
- 1.2 \$1,000,000 policy limit for bodily injury by disease
- 1.3 \$1,000,000 for each employee for bodily injury by disease

2. General liability insurance: The general annual aggregate limit is annually reinstated each policy year. Defense coverage is in addition to the policy limits. Completed-operations coverage will be extended for 10 years beyond the earlier of final acceptance of the work or expiration of the final policies. A single limit applies for the 10-year period. Limits for bodily injury, including death arising from the bodily injury, and property damage are:

- 2.1 \$2,000,000 for each occurrence
- 2.2 \$4,000,000 aggregate for completed operations
- 2.3 \$4,000,000 general annual aggregate

3. Umbrella or Excess Liability Insurance limits are not less than \$200,000,000 per occurrence and in the aggregate. Coverage is excess and following form to the commercial general liability and employer's liability policies. General aggregate limits are annually reinstated.

4. Contractor Pollution Liability with a limit of \$25,000,000 per occurrence and aggregate. Coverage extends to hazardous materials transport and treatment / disposal facilities.

The Contractor and subcontractors shall consult the actual policies for coverage details. The enrolled Contractor and subcontractors will receive a separate workers' compensation policy. A copy of the primary general liability policy and the excess liability policy will be available from the OCIP administrator.

The insurance company policy limits of liability, coverage terms, and conditions will determine the scope of coverage provided by OCIP. The policies may be amended from time to time. The Contractor and enrolled subcontractors of all tiers are bound by the terms of coverage as contained in the insurance policies.

OCIP does not provide builder's risk, professional liability, or any other type of insurance or surety not specifically described in these special provisions.

#### **OCIP Coverage Termination and Modifications**

Except for completed operations coverage, OCIP insurance coverage for enrolled Contractor will terminate upon contract acceptance and OCIP insurance coverage for its enrolled subcontractors will terminate upon completion of work at the job site.

The Department reserves the right to terminate or modify all or part of the Department's OCIP with 30 days prior written notice. In the event of termination or modification, the Contractor and its subcontractors of all tiers shall procure and maintain insurance required by the Department. The Department will reimburse to the Contractor the cost of insurance replacement, including associated project costs that may arise due to such insurance replacement. The form, coverage, limits, cost, and insurer rating for the replacement insurance shall be subject to Department approval.

#### **Coverage after Completion of the Work**

Insurance coverage under OCIP ends at contract acceptance. If a contractor returns to the job site to perform warranty work, it must perform warranty work under its own insurance coverage. Warranty work is not covered under the insurance provided by OCIP.

#### **Assignment of Return Premiums**

The Department will pay all OCIP premiums. The Department will be the sole beneficiary of any dividends or return premiums generated by OCIP.

In consideration of the Department providing an OCIP, the Contractor and subcontractors waive any right to and shall irrevocably assign to and for the benefit of the Department, all return premiums, premium refunds, premium discounts, dividends, retentions, credits, and any other moneys due the Department in connection with the insurance that the Department will provide. The Contractor shall, if requested, promptly execute an assignment form prepared by the Department. The Contractor shall require all tiers of enrolled subcontractors to execute a similar assignment for the benefit of the Department if such form is required of Contractor.

## **CONTRACTOR DEDUCTIBLE ASSESSMENT**

The enrolled Contractor or subcontractor primarily responsible for causing any bodily injury or property damage liability loss shall be responsible for payment of a deductible assessment. The assessment will equal the deductible under the Contractor's or subcontractor's regular (non-OCIP) commercial general liability policy up to a maximum assessment of \$25,000. The minimum assessment shall be the actual loss or \$5,000, whichever is less. The assessment shall be applied on the same basis as applied under the Contractor's or subcontractor's regular (non-OCIP) general liability insurance policy. The enrolled Contractor and subcontractors shall submit to the Department a copy of their commercial general liability insurance certificate for the purpose of determining the deductible assessment.

If the loss exceeds \$5,000 and information necessary to determine the Contractor's deductible as stated on its commercial general insurance certificate is not available to the Department, the Department will charge the Contractor the actual loss up to a \$25,000 maximum per occurrence until receipt of documentation from the Contractor's commercial general insurance policy evidencing the contractor's actual deductible. If the loss is less than \$5,000, the Department will charge the actual loss. The Department will charge the Contractor deductible assessment by processing administrative deductions on the Contractor's progress payments. At the option of the Department, the contractor deductible assessment may also be processed by direct billing, construction change orders, or any other method deemed appropriate by the Department.

The deductible assessment will apply to contractor pollution liability losses using the same terms and conditions described above except that the assessment for such losses shall be determined by the deductible on the Contractor or subcontractor's pollution liability policy subject to the minimum assessment of \$5,000 or actual loss, whichever is less. In the event that the Contractor or subcontractor does not have a contractor's pollution liability policy, the Contractor's or subcontractor's general liability policy deductible will be used to determine the assessment subject to the minimums described above.

The deductible assessment does not apply to workers' compensation claims for Contractor's own employee.

## **CONTRACTOR-FURNISHED INSURANCE**

Before starting work, the Contractor shall furnish certificates of insurance to the Engineer for itself and subcontractors of all tiers evidencing that coverages are in force on a primary basis for losses not covered under OCIP insurance policies.

### **Required Contractor-Furnished Insurance Policies**

For excluded contractors, contractor-furnished insurance shall apply to all losses. For eligible, enrolled contractors, contractor-furnished insurance shall comply with the following:

1. Automobile liability insurance for on-site and off-site.
2. Workers' compensation and employer's liability insurance applies for any work performed off-site.
3. Commercial general liability insurance for any operation not covered under OCIP.
4. Umbrella or excess liability applies on the same basis as the above underlying commercial general liability, employer's liability and automobile liability policies.
5. Professional liability insurance for on-site and off-site as applicable.
6. Tools and equipment floater insurance for on-site and off-site.

The Contractor-furnished insurance shall provide that there will be no cancellations, lapse, or reduction of coverage without 30 days' prior written notice to the Department, except for 10 days' prior written notice to the Department for non-payment of premium. Certificates of contractor-furnished insurance shall set forth deductible amounts or self-insured retentions applicable to each policy.

Self-insurance programs and self-insured retentions in insurance policies must be declared and are subject to separate annual review and approval by the Department. If the Contractor uses a self-insurance program or self-insured retention, then in the event of loss covered by the Contractor's insurance or not covered by OCIP, the Contractor shall provide the Department with the same protection from liability and defense of suits as would be afforded by first-dollar insurance. Execution of the contract is the Contractor's acknowledgement that the Contractor will be bound by all laws and court decisions as if the Contractor were an insurer subject to such applicable laws and court decisions specifically as if the Contractor were an insurer as defined under Ins Code § 23, and that the self-insurance program or self-insured retention shall operate as insurance as defined under Ins Code § 22.

Self-insurance programs and self-insured retentions in insurance policies are subject to separate annual review and approval by the Department.

## **Required Contractor-Furnished Insurance Limits**

The documents required as evidence of contractor-furnished insurance shall show minimum coverage as follows:

1. Automobile liability insurance, including owned, non-owned and hired autos with limits no less than \$1,000,000 combined single limit per accident
2. Workers' compensation (statutory) and employer's liability insurance:
  - 2.1. \$1,000,000 for bodily injury for each accident
  - 2.2. \$1,000,000 policy limit for bodily injury by disease
  - 2.3. \$1,000,000 for each employee for bodily injury by disease
3. Commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01 with limits no less than:
  - 3.1. \$1,000,000 per occurrence
  - 3.2. \$2,000,000 products and completed operations aggregate
  - 3.3. \$2,000,000 general aggregate
4. Umbrella or excess liability insurance containing a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted. Coverage shall apply and follow form over primary coverages shown above. A \$2,000,000 minimum limit requirement shall apply annually on a per occurrence and aggregate basis. No umbrella or excess liability insurance is required of an eligible and enrolled subcontractor who performs less than \$100,000 of the work.
5. Professional liability insurance: If the Contractor's work requires design or other professional services, the Contractor shall obtain and maintain, or require its subcontractors responsible for performing such design services to obtain and maintain, at all times during the term of this contract, professional liability (errors and omissions) insurance for all professional services provided. This professional liability insurance shall include full prior acts coverage sufficient to cover the services under this contract, the limits of which shall be not less than \$2,000,000 per claim and aggregate, with a maximum of \$100,000 self insured retention. Professional liability insurance shall be maintained during the term of the contract and it must include a 5 year minimum extended reporting period.
6. Contractor's tools and equipment insurance: The Contractor shall be responsible for any insurance it may deem necessary for protection against loss of owned, rented, or borrowed equipment and tools, including any tools owned by mechanics, and any tools, equipment, scaffolding, staging, trailers, cranes, towers, and forms owned, rented, or borrowed by the Contractor or its subcontractors. The Department will have no liability with respect to such equipment and tools and does not provide builder's risk or any other type of property insurance. Any policies maintained by the Contractor on their owned or rented equipment and materials shall not prohibit the insureds from waiving their rights of recovery against the Department. The Contractor hereby waives any rights of recovery against Department for damage to or loss of such equipment or tools. The Contractor shall obtain similar waivers in favor of the Department and its agents and employees from each subcontractor with whom it contracts to work on this project or any other project with the Department. Department, its agents, and employees are not liable for any losses on owned, rented, or borrowed equipment due to the Contractor's failure to secure such insurance or to maintain adequate levels of coverage.
7. Protection & Indemnity (P&I) : If the Contractor's work requires the use of watercraft on coastal waters, the Contractor shall obtain and maintain, or require its subcontractors responsible for performing such design services to obtain and maintain, at all times during the term of this contract, protection and indemnity insurance with limits to be approved by the Department.
8. Aircraft Liability: If the Contractor's work requires the use of aircraft of any kind the Contractor shall obtain and maintain, or require its subcontractors responsible for performing such aviation services to obtain and maintain, at all times during the term of this contract, aircraft liability insurance with limits to be approved by the Department.

The State and Department, the United States, the Presidio Trust, the National Park Service, and their officers, directors, agents, subsidiaries, parents, and employees shall be added as additional insureds for automobile liability, general liability, and umbrella or excess liability arising out of or connected with work performed by or on behalf of the Contractor. Additional insured coverage shall be as broad as form CG 2010 for general liability and umbrella or excess liability. The endorsement must be separately attached to the certificate of insurance and must list the project number and the entities listed above as additional insureds.

These minimum requirements do not limit in any way the Contractor's or subcontractor's obligation under any Indemnification Agreement. The Contractor shall agree that it is the intent of the parties to this contract that all available limits of contractor insurance shall apply to any loss off-site or otherwise not covered by OCIP and that these minimum requirements do not limit the coverage of umbrella or excess policies for any loss to which such insurance would otherwise apply, including coverage for additional insureds.

#### **Maintenance of Contractor-Furnished Insurance**

All required insurance shall be maintained without interruption from the start of work until contract acceptance. The insurance required shall be written on forms that conform to the requirements under OCIP Manual and are acceptable to Department. The Contractor shall provide to the Department within 3 business days of any renewal, change, or replacement of coverage, certificates of insurance and endorsements evidencing coverage required.

If an eligible, enrolled Contractor or subcontractor chooses to have any of its own insurance policies include the job site during the construction period, coverage shall be in excess of or applicable to difference in conditions of the insurance provided under OCIP. The Department will not pay for this additional cost. Inclusion of the job site on such insurance policies does not replace OCIP coverage or otherwise affect the cost identification requirements in section "Contractor's Insurance Cost Identification and Deduction," of these special provisions.

Any type of insurance or any increase of limits of liability not described in this section, "Contractor-Furnished Insurance," that the Contractor requires for the Contractor's own protection or on account of any statute shall be the Contractor's responsibility.

#### **Failure to Maintain Insurance**

In the event the Contractor or any subcontractor fails to furnish and maintain required insurance or to furnish satisfactory evidence of the required insurance, the Department may procure and maintain the coverages for the Contractor or subcontractor. The Department will furnish all necessary information to the Contractor and deduct the cost from any monies due or to become due the Contractor. Failure to provide evidence of such insurance may result in the Contractor or subcontractor being excluded from the job site until proper coverage is verified. The cost of any resulting delay shall be borne by the Contractor.

### **CONTRACTOR'S INSURANCE COST IDENTIFICATION AND DEDUCTION**

The Contractor shall identify the costs of its workers' compensation, general liability, and excess liability insurance. The cost of insurance includes the insurance premiums, the applicable taxes and assessments, any mark-up on the insurance premiums, any retained loss programs, self-insured programs, self-insured retentions, any deductible program, and any other cost that duplicates insurance provided by the Department.

The Contractor and each eligible subcontractor shall use CT OCIP Form 1, "OCIP Enrollment Form" to identify their workers' compensation insurance, general liability insurance, and excess liability insurance costs, along with all insurance costs which duplicate insurance provided under OCIP. This form and supporting documents shall be completed and returned to the Engineer as part of OCIP enrollment.

The Contractor and each eligible subcontractor must submit documentation that supports the deducted cost for insurance from the bid for the work. Supporting documentation may include the following pages from their workers' compensation, general liability, and excess liability policies:

1. Declarations or information page
2. Rate page
3. Deductible endorsement
4. Verification of experience modification factor for workers compensation insurance
5. 5 years of loss history for entities that retain losses
6. For contractors that self-insure workers' compensation, a copy of the Annual Report submitted to the state regulatory agency for the last 3 years or a detailed accounting of the total cost of the self-insured program for the last 3 years
7. Explanation of the method of determining the mark-up on their insurance costs
8. Explanation of the basis of the mark-up on their subcontractors' insurance costs

The Contractor shall be solely responsible for ensuring that eligible subcontractors of all tiers identify and deduct the cost of the insurance already provided under OCIP.

The Contractor's insurance cost deduction from its bid shall be based on the following insurance coverages and limits:

1. Workers' compensation insurance statutory benefits and employer's liability limits of:
  - 1.1. \$1,000,000 for bodily injury for each accident
  - 1.2. \$1,000,000 policy limit for bodily injury by disease
  - 1.3. \$1,000,000 for each employee for bodily injury by disease
2. Commercial general liability insurance with coverage no less broad than that provided by Insurance Services Office form CG 00 01 10 01 with limits of:
  - 2.1. \$2,000,000 per occurrence
  - 2.2. \$2,000,000 completed operations aggregate
  - 2.3. \$4,000,000 general aggregate
3. Umbrella or excess liability insurance (for Contractor only) providing total limits of \$25,000,000 per occurrence and aggregate. There are no excess liability insurance requirements for subcontractors.

If the Contractor's current insurance program does not conform to these requirements because of lower total limits or a different structure for primary insurance, the Contractor may use the following factors to account for the difference in cost between the Contractor's existing program and the program described above:

1. Cost to increase primary general liability limits from \$1,000,000/\$2,000,000/\$2,000,000 to \$2,000,000/\$2,000,000/\$4,000,000, add 18 percent of the cost of primary general liability premium attributable to this project.
2. Cost for \$25,000,000 umbrella or excess liability coverage, add 40 percent of the cost of primary general liability premium attributable to this project including any adjustment required by the calculation in a. immediately above.

As an alternative to using the factors described in items 1 and 2 above, the Contractor may obtain actual quotations from its insurers or insurance brokers for coverage as described applicable only to this project. However the Contractor shall not be required to purchase such coverage and shall not, in any case, charge the Department for such coverage.

### **Deduction Guidelines**

The Contractor and eligible subcontractors of all tiers shall use the following guidelines to identify all costs for insurance as described in this section:

1. If a contractor's regular general liability insurance program includes a deductible or self-insured retention greater than \$25,000, the contractor must provide evidence of the corresponding premium credits granted by the contractor's insurer. These credits will not be allowed as an offset to the amount to be deducted. The value of these credits will be included in the amount to be deducted for OCIP. As an alternative to providing premium credit information, the contractor may submit an insurer-provided or actuarially developed rate for the difference in cost between contractor's actual deductible (or self-insured retention) and the \$25,000 deductible provided by OCIP.
2. If neither deductible credits nor an insurer or actuary-determined rate is available, the cost deduction calculation must include a rate determined by the Department. The Department has determined that the rate for the portion of coverage between the \$25,000 deductible assessment and a deductible of \$250,000 is one and one half percent (1.5%) of contract value. This rate will be applied proportionately to the contractor's actual deductible between \$25,000 and \$250,000 (by interpolation). For example, if the contractor's deductible is \$100,000, the rate credit will be 0.83% ( $(25,000 - 100,000) / 225,000 \times 1.5\%$ ). This amount will be added to the contractor-identified insurance costs using the CT OCIP Form 1 and supporting documents, and will be part of the deduction.

3. Corporate allocations must include the insurance company's actual calculation of premium. Contractor must provide additional documentation for any such credits claimed.
4. Upon request, a contractor shall provide a copy of the most recently issued WCIRB or NCCI worksheet showing payroll and losses for the workers' compensation Experience Modification rating period. Workers' compensation self-insured contractors shall use a unity (1.0) modifier for purposes of calculating workers' compensation deduction credits. Self-insured contractors should use rates provided by their insurer for the cost of first-dollar workers' compensation coverage or may use WCIRB pure premium rates increased by 15 percent.

By completing and submitting CT OCIP Form 1, "OCIP Enrollment Form," and supporting documents, the Contractor and subcontractors of all tiers certify that all costs for insurance as described in this section have been correctly identified and have been deducted from the Contractor's bid for the work.

The Contractor shall ensure subcontractors of all tiers follow the requirements in this section "Contractor Insurance Cost Identification and Deduction Guidelines."

#### **Required Recordkeeping for Cost Identification**

In addition to the provisions of Section 7.1.01A(3), "Payroll Records," of the Standard Specifications, the Contractor and eligible subcontractors shall:

1. Keep and maintain accurate and properly classified records of payroll and other data necessary for the proper computation of workers' compensation premiums with respect to the insurance provided under OCIP. The Contractor's and its subcontractors' records shall be maintained to show separately by employee and class of work, or comparable information acceptable to the Department, all necessary pertinent payroll data excluding the premium portion of overtime for the purpose of developing and determining premiums and shall keep their records relating to the work performed under this contract in such a manner that the records can readily be separated from other work of the Contractor or subcontractors of all tiers.
2. Submit to the Department or to the OCIP Administrator monthly records of workers' compensation payroll and other data for itself and its subcontractors to the Department by the 15th day of the subsequent month using forms provided by the Department. Upon completion of a subcontractor's work under this contract, the Contractor shall submit to the Department or its representative all necessary data to permit complete insurance premium determination for each of its subcontractors. Certified payroll is not an acceptable substitution. The Contractor and subcontractors of all tiers shall keep and maintain accurate records by workers' compensation classifications of their payroll for work insured by OCIP.

#### **AUDIT AND RECOVERY OF CONTRACTOR INSURANCE COST**

The Contractor and subcontractors agree that, upon enrollment, the Department, the OCIP Administrator, and any OCIP insurer may inspect, copy, and audit the Contractor's and the subcontractors' payroll records, books and records, insurance policies, insurance cost data, bid documents, estimates, or any other information to confirm the accuracy of any information provided to the Department or OCIP Administrator, to verify compliance with the contract documents or to confirm that costs of general liability insurance, excess liability insurance and workers' compensation insurance are not included in the original bid. The Contractor agrees to maintain and have available the records identified above for a period of up to three years after completion of the project.

Upon contract acceptance, the Contractor shall submit to the Department all necessary data to permit complete insurance premium determination for itself and its subcontractors of all tiers. At the end of the contract and each subcontract, and at any other time as determined by the Engineer, the OCIP Administrator or the insurance company, an audit will be performed using the reported payroll and receipts furnished during the OCIP policy term.

#### **CONTRACTOR RESPONSIBILITIES**

The Contractor shall be responsible for and require its subcontractors of all tiers to be responsible for:

1. Complying with all rules and regulations of the California Workers' Compensation Insurance Rating Bureau (CWCIRB).
2. Complying with applicable claims handling responsibilities and project safety administration as specified in sections "Claim Reporting and Participation Responsibilities" and "Project Safety" of these special provisions.

3. Complying with necessary contract, operations, and insurance information including but not limited to declarations pages, underwriting and rating information, certificates, loss histories, Cal OSHA citations, and, if requested, complete, certified copies of insurance policies.
4. Cooperating with the Department and its representatives as regards the administration and operation of OCIP.
5. Assuring that all subcontractors receive copies of the OCIP Manual. Failure of the Contractor to provide an OCIP Manual to subcontractors shall not relieve the Contractor or any subcontractor from the requirements of these special provisions.
6. Assuring that the terms of this section, "Owner Controlled Insurance Program (OCIP)," are included in all subcontracts of every tier, purchase orders, and agreements entered into for performance of any portion of the work.
7. Not violating or knowingly permit violation of any conditions of the policies of insurance provided under OCIP.
8. Cooperating with OCIP insurance policy requirements, including but not limited to physical audit of payroll records by the insurance company or its representatives.

Without limitation upon any of the Department's other rights or remedies, any failure by the Contractor or any subcontractor to comply with this section, "Owner Controlled Insurance Program," shall entitle the Department, at its option, upon notice to the Contractor to either:

1. Suspend performance by the Contractor, without any compensation, until there is full compliance
2. Terminate this contract for cause

The Contractor shall not violate or knowingly permit to be violated any conditions of the OCIP Policies or other policies of insurance required by "Owner Controlled Insurance Program (OCIP)," or by the OCIP Manual. The Contractor shall ensure that all requirements imposed by such policies, the terms of this section, "Owner Controlled Insurance Program (OCIP)," and the OCIP Manual shall likewise be imposed on, and assumed and performed by, each subcontractor of every tier.

#### **SUBMITTAL OF FORMS AND DOCUMENTS**

The Contractor shall submit the following forms as specified:

1. **CT OCIP Form 1, "OCIP Enrollment Form."** The Contractor and eligible subcontractors of all tiers, before starting work, shall complete and submit the form to the Engineer along with copies of the Contractor's insurance policy pages that display applicable rates and premium calculations for workers' compensation, general liability, and excess or umbrella liability insurance, if applicable.
2. **CT OCIP Form 2, "Monthly Payroll Reporting Form."** The enrolled Contractor and subcontractors of all tiers shall complete and submit the form to the Engineer for the prior month's work by the 15th day of the following month. This form must be submitted showing "0" payroll even if the enrolled Contractor or subcontractor was not on site that month. This form shall be submitted monthly until a CT OCIP Form 3, "Contractor's Notice of Work Termination Form," is submitted, even if there was no on-site work performed. This form shall be submitted in addition to any payroll records required by Section 7-1.01A(3), "Payroll Records," of the Standard Specifications.
3. **CT OCIP Form 3, "Contractor's Notice of Work Termination."** The Contractor and enrolled subcontractors of all tiers shall, upon completion of its work, complete and submit this form to the Engineer by the 5th business day after the last day of the month during which work was completed, including punch list items under the contract. The Contractor shall ensure enrolled subcontractors of all tiers complete this form.

Failure of the Contractor to submit complete OCIP documents to the Engineer will result in a withhold in the amount of \$500 for each day any of the required forms are not submitted within the above time frames. The Department will not compensate the Contractor for any delays or costs resulting from failure to comply with these requirements.

## **WAIVER OF RIGHT OF RECOVERY**

Contractor hereby waives all rights of recovery against the Department, consultants, OCIP Administrator, and any other Contractor, subcontractor and consultant performing OCIP work or rendering OCIP services in connection with the project, including without limitation, the officers, directors, agents, shareholders and employees of each of them. The waivers provided for in this paragraph shall be deemed effective as to any individual or entity even if such individual or entity:

1. Would otherwise have a duty of indemnification, contractual or otherwise
2. Did not pay the insurance premium directly or indirectly

## **CLAIM REPORTING AND PARTICIPATION RESPONSIBILITIES**

The Contractor shall adhere to and perform all reporting requirements as set forth in the Claims Procedures part of the OCIP Manual. The Contractor has a right to participate and provide input in all workers' compensation claim review meetings involving claims made by that contractor's employees including the annual review prior to any unit statistical filings.

## **PROJECT SAFETY**

The Contractor shall ensure that its employees and the general public will be provided a clean, safe environment free of hazards during construction activities. The ultimate responsibility for providing a safe place to work rests with the Contractor. The Contractor shall develop its own written Site-Specific Safety Program (SSSP). At minimum, the SSSP shall conform to the requirements addressed in the CA Code of Regs if applicable, and any other pertinent safety regulations. This includes, but is not limited to, all applicable local, state, and federal Safety Standards and Codes.

The Contractor shall allocate a full-time, 100% project dedicated, on-site Safety Quality Control Manager (SQCM) for the duration of this contract. This SQCM must be a competent and qualified person, as defined by Cal OSHA, shall provide oversight on the project. SQCM shall have knowledge in the area of safety procedures for all types of work being performed on this contract. SQCM shall be up to date on Caltrans, Cal OSHA, OSHA and other safety agency requirements. SQCM shall continuously review the construction work plan and actual work, and submit daily status reports to the Engineer through the contractor's onsite construction manager on all activities underway to document safety conditions, and if necessary measures being taken to improve safety. This provision does not relieve the Contractor of his responsibility to comply with all safety requirements of the contract.

At a minimum, daily status reports shall include:

1. Documentation of daily work activity.
2. Documentation of safety related field activities.
3. Documentation of safety deficiencies and corrective actions taken.
4. Documentation of meetings, conversations, and other communications related to safety issues.

All reports shall include name of individual preparing report, date, and weather conditions.

The Contractor shall provide resumes/qualifications for SQCM for review and approval by the Engineer. Contractor shall terminate and/or replace the SQCM upon 2 weeks written notice from the Engineer. The Contractor may terminate and/or replace the SQCM upon 2 weeks written notice to the Engineer.

Without diminishing the Contractor's responsibility for safety, the Department through OCIP may provide technical safety services to assist the Engineer in monitoring the safety, health, and environmental performance of the Contractor and its subcontractors of all tiers. The Contractor and its subcontractors of all tiers shall be monitored for effectiveness and application of their respective safety programs at the job site.

The Contractor and its subcontractors of all tiers shall adhere to a 100 percent drug and alcohol-free program. At a minimum pre-employment, probable cause, and post-accident testing is required.

Contractor employees must wear approved Class B hard hats on the job site.

Fall protection is required for work at or above six feet.

The Contractor or subcontractors shall ensure that employees of the Contractor and subcontractors of all tiers attend a safety orientation program and that new hires and personnel transferred to the project receive this orientation prior to starting work. This orientation shall be designed to communicate all project-specific safety policies, procedures, and expectations of the Department in regard to the construction of the project.

The Contractor shall perform a daily self-inspection of the site and shall document such inspections at least weekly.

The Contractor or subcontractors shall hold weekly crew-level toolbox safety meetings. These meetings shall be documented as to content and attendance.

The Contractor shall hold weekly subcontractor safety coordination meetings documented as to content and attendance.

The Contractor and subcontractors are responsible to assure that any accident receives prompt response including investigation, analysis and reporting, and that any injuries receive prompt care and treatment.