

**CONSTRUCTION AGREEMENT 09-031803 IP (3-25678)  
FOR CONSTRUCTION OF IMPROVEMENTS ON  
NORTHWEST CORNER OF STREET "A" AND STREET "B"**

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<b>EXHIBIT</b>	<b>TITLE</b>
A	Approved Construction Plan
A-1	Fees, Bonds and Permits
A-2	Engineer's Estimate
B	Faithful Performance Bond
C	Payment (Labor and Materials) Bond
D	Warranty (Defective Materials and Workmanship) Bond
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**CONSTRUCTION AGREEMENT 09-031803 IP (3-25678)  
FOR CONSTRUCTION OF IMPROVEMENTS ON  
NORTHWEST CORNER OF STREET "A" AND STREET "B"**

***THIS AGREEMENT*** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF SAN JOSE, a municipal corporation of the State of California (hereinafter referred to as "City") and \_\_\_\_\_ (hereinafter referred to as "Developer").

**R E C I T A L S**

- I. Developer has an interest in certain lands which are proposed to be improved and developed. This development is located in the City of San Jose, County of Santa Clara, State of California and is shown as "Site" on Exhibit "A" (approved construction plans) and incorporated herein by reference. This development will hereinafter be referred to as the "Project".
- II. The Project will be benefited and improved by the construction and installation of certain public improvements, hereinafter referred to as the "improvements", within public streets and easements. Developer desires to enter into this agreement for construction and installation of said improvements.
- III. Development Permits and Environmental Clearance issued or pertaining to this project are as described in Exhibit "A-1".
- IV. The construction and installation of said improvements will be done by the Developer pursuant to San Jose City Charter Section 1217. The City is willing to accept those public improvements after construction by the Developer, subject to the following terms and conditions.

***NOW THEREFORE***, for and in consideration of the promises and subject to the conditions hereinafter set forth, the City and Developer agree as follows:

1. ***PERFORMANCE BY DEVELOPER***

- A. Developer has prepared and the Director of Public Works (Director), has approved Plans and Specifications for all improvements. The improvement plans and specifications are a part of this agreement, incorporated herein by reference as Exhibit "A". At the Developer's sole cost and expense, Developer agrees to construct all of the improvements shown on such plans and as described in such specifications to the satisfaction of the Director and pursuant to the terms and conditions of this agreement.

Approval of this agreement and the plans does not release the Developer of the responsibility for the correction of mistakes, errors, or omissions contained therein. If during the course of construction of the improvements, public interest requires a modification of or a departure from the City specification or the Improvement Plans, the Director shall have the authority to require such modifications or departure and to specify the manner in which the same is to be made.

- B. Developer has or shall obtain the permits described in Exhibit "A-1".
- C. Developer has delivered to the City clear title to lands as required for the improvements shown on the Plans and Specifications and as required by the permits described in Exhibit "A-1".

2. ***SCHEDULE OF PERFORMANCE***

Construction of all of the improvements pursuant to the terms and conditions of this agreement shall be completed no later than twelve (12) months from the date of this agreement. If construction of the improvements is delayed without fault on the part of the Developer, as a result of acts of God, fire, floods, strikes, or other causes beyond the reasonable control of the Developer, the Developer may request in writing an extension of time to complete such improvements. If any of the foregoing events occur or if construction is not substantially complete at the end of twelve (12) months from the date of this agreement, the completion time may be extended in writing at the sole discretion of the Director. Insurance and bonds required hereunder must be maintained during any such time extension. This agreement shall be in effect for one year after completion of Project and acceptance of public improvements.

3. ***ENGINEERING AND INSPECTION FEES***

Developer has paid to the City a cost recovery fee in the amount specified in Exhibit "A-1" for services performed, or to be performed by the City.

4. ***CONNECTION FEES***

Developer has paid Sewage Treatment Plant (STP), Sanitary Sewer and Storm Sewer fees shown on Exhibit "A-1".

5. ***COMPLETION DEPOSIT***

A completion deposit certificate in the amount specified in Exhibit "A-1" shall be furnished to the City. The completion deposit shall be in the form of a Non-Negotiable Deposit Certificate (CD) from a bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). The certificate shall be payable to the City of San Jose, show the Developer as depositor and have an automatic renewal provision with the initial term of the certificate for 90 days. In the event that the Developer shall refuse or fail for any reason to faithfully perform any of the covenants and conditions of this agreement, the Director may, at his sole discretion, after giving written notice to the Developer and

the Developer's subsequent failure to satisfy the matter complained of within the time required in the notice, render safe, correct or complete the improvements using funds from such deposit to pay the costs of correction. Such costs may include expenses reasonably incurred by the City. The time required shall be determined by the Director and shall relate to the nature and hazard of the failure. Upon the acceptance of said improvements, the unexpended portion of such deposit shall be returned to the Party that made the deposit.

6. ***BONDS***

Prior to execution of this agreement by the City, the developer has furnished or caused to be furnished to the City a good and sufficient bond securing the faithful performance by the Developer (referred to as Principal in Exhibit "B") of all the work and construction required by this agreement within the time specified and Developer shall furnish a good and sufficient bond securing the payment by the Developer (referred to a Principal in Exhibit "C") of all billings for labor and materials incurred in the construction of all improvements. Said bonds are in the amount specified in Exhibit "A-1" attached and incorporated herein by reference and in the form of bonds attached as Exhibit "B" and Exhibit "C", attached and incorporated herein by reference. In addition to the Performance and Payment Bonds, the Developer shall furnish or cause to be furnished a Warranty (Defective Materials and Workmanship) Bond to the City in the amount specified in Exhibit "A-1" and in the form attached as Exhibit "D", incorporated herein by reference, said bond to be in effect for a period of one year following acceptance of the improvements by the City.

7. ***DEFAULT***

In the event of default by the Developer of any of the terms and/or conditions of this agreement including but not limited to failure to abide by the terms of traffic control and street closure plans, the Director may, upon written notice to the Developer and the Developer's failure to promptly commence and diligently pursue the correction or curing of any such default, terminate this agreement. Termination of this agreement shall be construed as a withdrawal of authorization for construction to continue in the public right-of-way. Further, temporary withdrawal of authorization may be exercised by the Director as a result of Developer's failure to perform pursuant to this agreement following such written notice. However, if the Developer has failed to maintain the insurance coverage required by this agreement, the Director may immediately withdraw such authorization. Such temporary withdrawal of authorization right may be exercised by Director without formal termination of this agreement. Such authorization may be subsequently reinstated by the Director after he determines, in his sole discretion, that the terms and conditions have been met by Developer. The Director may, in addition to all other remedies, pursue City's remedies under the Completion deposit, Faithful Performance and Payment Bonds and the Warranty Bond.

8. ***INSURANCE REQUIREMENTS***

Developer, at the Developer's sole cost and expense and for the full term of this contract or any renewal thereof, shall obtain and maintain at least all of the minimum insurance

requirements as described in Exhibit "E" prior to commencing any work under this contract. Said insurance shall be filed with and approved by the City's Risk Manager before a Development Clearance shall be issued by the Director. The Risk Manager approval shall be labeled Exhibit "H" and attached to the agreement by the Developer.

9. ***ENVIRONMENTAL CLEARANCE***

The Statute of Limitations on the environmental clearance for this Project does not expire until thirty (30) days after the filing of the Notice of Determination. Any change or modification, including termination of the project and construction of the proposed improvement which may be environmentally required as the result of the environmental process, is the sole responsibility of the Developer. The Developer expressly waives any and all loss, claims or damages against the City as a result of this process.

10. ***ACCEPTANCE TEST FOR STORM AND SANITARY SEWERS***

Prior to acceptance of Developer-constructed storm and sanitary sewer facilities, they shall be cleaned and inspected in accordance with the Standard Specifications issued by the City and shall be internally inspected by a color video television camera in accordance with the City's Special Provisions and Specifications available from the City's project engineer or inspector. The video tape shall be submitted to the project inspector. After examination and analysis, if the pipe systems are satisfactory, they shall be accepted in conjunction with the project. If not, they must be repaired consistent with the Standard Specifications and re-inspected by video camera prior to acceptance.

11. ***ACCEPTANCE AND COMPLETION***

Upon satisfactory completion of all the improvements as determined by the Director, the City will record a Notice of Acceptance and Completion of such improvements and provide an endorsed copy of the recorded Notice of Acceptance and Completion to the Developer. Bonds and insurance shall be released subject to the conditions and time periods described herein. Title to the improvements constructed pursuant to this agreement which are under San Jose jurisdiction shall vest in the City upon such acceptance.

After acceptance of such improvements, any repair of defective material or workmanship by the Developer will require a separate permit with insurance coverage acceptable to the City's Risk Manager from the Director and the Developer shall have no right to work in the public right-of-way without such written authorization.

12. ***INDEMNITY***

Developer hereby expressly agrees to defend, indemnify and hold harmless the City, its officers and employees, from any and all liability, loss or damage and from any suits, actions or claims filed or brought as a result of or arising out of the obligations under this agreement, or arising out of or resulting from the failure or omission of the Developer to perform as required by this agreement or by law or arising out of defective conditions constructed, created, maintained or permitted by the Developer.

13. **NOTICES**

All notices to be given hereunder shall be in writing and may be served, either personally or by certified or registered mail, return receipt requested, postage prepaid to the addresses set forth on the signature page and listing designated representatives of each party to this agreement, or to any other address provided by one party to the other from time to time in writing. The effective date of such written notice shall be the date of personal delivery of such notice or forty-eight (48) hours after the date of deposit of same in the United States Mail, certified or registered mail, return receipt requested, postage prepaid and properly addressed.

14. **TRAFFIC CONTROL**

Traffic Control, detours and partial street closures shall be approved by City and other appropriate agencies prior to implementation by the Developer.

15. **AUTHORIZATION FOR CONSTRUCTION**

Upon execution of this agreement by both parties and the filing of all documents and payment of all fees required herein, the Developer shall be authorized to begin construction of said improvements upon receiving a Development Clearance from the Director. The Developer shall give twenty four (24) hours notice to the City's Development Services Division of the Department of Public Works at (408) 535-3555, prior to commencement of work under this agreement.

16. **ENTIRE AGREEMENT**

This agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements arrangements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this agreement which are not fully expressed herein. This agreement may not be amended except pursuant to a written instrument signed by all parties.

17. **ASSIGNMENT**

Developer shall not assign any interest in this agreement and shall not transfer any interest in the same (whether by assignment or notation).

18. **WAIVER**

Developer agrees that waiver by the City of any one or more of the conditions of performance under this agreement shall not be construed as waiver of any other condition of performance under this agreement.

19. **EXTENSION OF CONSTRUCTION AGREEMENT**

The Director of Public Works may, in his or her sole discretion, extend the time for completion of the public improvements beyond the twelve (12) months in six (6) month increments unless or until the improvements are needed for public health, safety, welfare or for the orderly development of the City. The Developer shall pay to the City the amount of the cost recovery fee in effect at the time of the request for extension, provided, however, that this fee shall not be charged for delays caused by the City beyond the control of the Developer. As a condition of such extension, the Director of Public Works may require Developer to furnish new security guaranteeing performance of this Agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by the Director of Public Works.

**WITNESS THE EXECUTION HEREOF** the day and year first herein above written.

"Developer"

"City"

CITY OF SAN JOSE  
a municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Katy Allen  
Director of Public Works

\_\_\_\_\_  
Address

200 East Santa Clara Street  
San Jose, California 95113

\_\_\_\_\_  
City

(408) 535-3555

\_\_\_\_\_  
Telephone

Attach Notary Acknowledgments for All Signatures

**CONSTRUCTION AGREEMENT 09-031803 IP (3-25678)**  
**EXHIBIT A-1**

**SUMMARY OF FEES, BONDS AND PERMITS**

The fees are summarized below. These fees may change if Council adopts new rates prior to their payment and they are therefore, subject to recalculation at any time prior to payment. A copy of the receipt is to be labeled Exhibit "G" and attached to the Agreement by the developer.

**A. FEES AND DEPOSITS**

COMPLETION DEPOSIT, in a form of a \$10,000.00 Certificate of Deposit (CD)

	Amount Due
1. Sewage Treatment Plant (STP) Connection	\$0.00
2. Sanitary Sewer Connection Fee	\$0.00
a) Excess Units Charge	\$0.00
3. Storm Drainage Fee	\$0.00
4. Engineering and Inspection (E&I) Fee	\$25,230.00
5. Underground Service Alert (USA) Fee	\$3,034.00
6. Electrical Design/Review Fee	\$3,472.00
7. Electrical Inspection Fee	\$3,426.00
8. Private Street Engineering & Inspection Fee	\$0.00
9. Pavement Design Fee	\$0.00
10. Materials Laboratory Testing Fee	\$4,751.00
11. Traffic Signal Design/Review Fee	\$0.00
12. Traffic Signal Inspection Fee	\$0.00
13. Geometric Design Fee	\$3,000.00
14. Pavement Marking Fee	\$0.00
15. Traffic Signs	\$0.00
16. Street Tree Maintenance Fee	\$0.00
17. Public Works Record Retention Fee	\$1,500.00
18. Benchmark Maintenance Fee	\$150.00
19. Arterial Reimbursement Fee	\$0.00
20. Undergrounding In-Lieu Fee	\$0.00
21. Traffic Signal In-Lieu Fee	\$0.00
22. Median Island In-Lieu Fee	\$0.00
23. Street Improvement In-Lieu Fee	\$0.00
24. North San Jose Deficiency Plan Fee	\$0.00
25. Depositors Fund	\$0.00

Total Fees to the City: \$44,563.00

Outstanding Fees Due: See Attached Invoice

The amounts of the bonds required are as follows:

**B. BONDS**

1. Faithful Performance Bond	\$ 200,000.00
2. Payment Bond	\$ 200,000.00
3. Warranty Bond	\$ 50,000.00

The planning conditions that will be satisfied through this Agreement process are noted.

**C. PERMIT NUMBER:** 3-00356

**D. DOCUMENTATION REQUIRED**

1. Environmental Clearance. Developer to attach copy of Notice of Determination labeled Exhibit "F".
2. Permits are required from:
  - A. \_\_\_\_\_
  - B. \_\_\_\_\_
3. Other documents: \_\_\_\_\_
4. Be sure to include insurance approval as Exhibit "H"

All of the foregoing items are to be attached to the Agreement by the Developer prior to submittal to the City. Upon execution of the agreement by the City a Development Clearance will be given to the Developer.

Bond No. \_\_\_\_\_

Premium \_\_\_\_\_

## FAITHFUL PERFORMANCE BOND

**WHEREAS**, the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and \_\_\_\_\_, as principal ("Principal") have entered into an agreement entitled **CONSTRUCTION AGREEMENT 09-031803 IP (3-25678)**, incorporated herein by reference and referred to as the "Contract," which requires Principal to install and complete certain designated public improvements; and,

**WHEREAS**, under the terms of the Contract and prior to commencing any work under the Contract, Principal is required to furnish a bond to City for faithful performance of the Contract.

**NOW, THEREFORE**, we the Principal and \_\_\_\_\_, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City in the sum of **TWO HUNDRED THOUSAND DOLLARS AND NO/100 DOLLARS (\$200,000.00)**, for the payment of which sum well and truly to be made, we the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

The condition of this obligation is such that, if the Principal, Principal's heirs, executors, administrators, successors, or assigns shall in all things stand to and abide by, and well and truly keep and perform all covenants, conditions, and agreements required to be kept and performed by Principal in the Contract and any changes, additions, or alterations made thereto, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meanings, and shall indemnify and save harmless City, its officers, employees, and agents, as therein provided, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the sum specified above, there shall be included all costs, expenses, and fees, including attorney's fees, reasonably incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

**IN WITNESS WHEREOF**, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL:

SURETY:

\_\_\_\_\_  
(Principal name)

\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Surety name)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title)

\_\_\_\_\_  
(Print name and title)

Principal address and telephone:

Surety address and telephone:

**Affix Corporate Seals**  
**Attach Notary Acknowledgments for All Signatures**  
**Attach Power-of-Authority if executed by Attorney-in-Fact**

Bond No. \_\_\_\_\_

Premium \_\_\_\_\_

## PAYMENT (LABOR AND MATERIALS) BOND

**WHEREAS**, the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and \_\_\_\_\_, as principal ("Principal") have entered into an agreement entitled **CONSTRUCTION AGREEMENT 09-031803 IP (3-25678)**, incorporated herein by reference and referred to as the "Contract," which requires Principal to install and complete certain designated public improvements; and,

**WHEREAS**, under the terms of the Contract and prior to commencing any work under the Contract, Principal is required to furnish a good and sufficient payment bond to the City to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the California Civil Code.

**NOW, THEREFORE**, we the Principal and \_\_\_\_\_, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City, and unto all contractors, subcontractors, suppliers, laborers, materialmen and other persons employed in the performance of the Contract and referred to in the aforesaid Civil Code, as obligees, in the sum of **TWO HUNDRED THOUSAND DOLLARS AND NO/100 DOLLARS (\$200,000.00)**, on the condition that if Principal shall fail to pay for any materials or equipment furnished or used or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and all subcontractors with respect to such work or labor, then the Surety shall pay the same in an amount not exceeding the sum specified above. If suit is brought upon this bond, Surety shall pay, in addition to the above sum, all costs, expenses, and fees, including attorney's fees, reasonably incurred by any obligee in successfully enforcing the obligation secured hereby, all to be taxed as costs and included in

the judgment rendered. Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect, and shall bind Principal, Surety, their heirs, executors, administrators, successors, and assigns, jointly and severally.

**IT IS HEREBY EXPRESSLY STIPULATED AND AGREED** that this bond shall inure to the benefit of all persons, companies, corporations, political subdivisions, and State agencies entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

**IN WITNESS WHEREOF**, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL:

\_\_\_\_\_  
(Principal name) (Seal)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title)

Principal address and telephone:

SURETY:

\_\_\_\_\_  
(Surety name)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title)

Surety address and telephone:

**Affix Corporate Seals**  
**Attach Notary Acknowledgments for All Signatures**  
**Attach Power-of-Authority if executed by Attorney-in-Fact**

Bond No. \_\_\_\_\_

Premium \_\_\_\_\_

## WARRANTY BOND

**WHEREAS**, the City of San Jose, a municipal corporation of the State of California (“City”) and \_\_\_\_\_, as principal (“Principal”) have entered into an agreement entitled **CONSTRUCTION AGREEMENT 09-031803 IP (3-25678)**, incorporated herein by reference and referred to as the “Contract,” which requires Principal to install and complete certain designated public improvements; and,

**WHEREAS**, under the terms of the Contract, Principal is required to furnish a bond to City to make good and protect the City against the results of any work or labor done or materials or equipment furnished which are defective or not in accordance with the terms of the Contract having been used or incorporated in any part of the work so contracted for, which shall have appeared or been discovered, within the period of one (1) year from and after the completion and final acceptance of the work done under the Contract.

**NOW, THEREFORE**, we the Principal and \_\_\_\_\_, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California (“Surety”), are held firmly bound unto the City in the sum of **FIFTY THOUSAND DOLLARS AND NO/100 DOLLARS (\$50,000.00)**, for the payment of which sum well and truly to be made, we the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

The condition of this obligation is such that, if the Principal shall well and truly make good and protect the City against the results of any work or labor done or materials or equipment furnished which are defective or not in accordance with the terms of the Contract having been used or incorporated in any part of the work performed under the Contract, which shall have appeared or been discovered within said one-year period from and after completion of all work under the Contract and final acceptance by City of said work, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any change, extension of time, alteration or addition.

**IN WITNESS WHEREOF**, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL:

SURETY:

\_\_\_\_\_  
(Principal name) (Seal)

\_\_\_\_\_  
(Surety name)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title)

\_\_\_\_\_  
(Print name and title)

Principal address and telephone:

Surety address and telephone:

**Affix Corporate Seals**  
**Attach Notary Acknowledgments for All Signatures**  
**Attach Power-of-Attorney if executed by Attorney-in-Fact**

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## INSURANCE REQUIREMENTS

Contractor, at Contractor's sole cost and expense, shall procure and maintain for the duration of this permit/agreement insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by Contractor, his agents, representatives, employees or subcontractors.

A. **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage "occurrence" form CG 0001 including products and completed operations and X. C. U. (explosion, collapse, underground); and
2. The coverage provided by Insurance Services Office form number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. **Minimum Limits of Insurance**

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

C. **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and contractors; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City.

D. **Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. **General Liability and Automobile Liability Coverages**

- a. The City, its officials, employees, agents and contractors are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents and contractors.
- b. The Contractor's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents or contractors shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, agents, or contractors.
- d. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.

2. Workers' Compensation and Employers Liability

Coverage shall be endorsed to state carrier waives its rights of subrogation against the City, its officials, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City.

E. **Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

F. **Verification of Coverage**

Contractor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Copies of all the required ENDORSEMENTS shall be attached to the CERTIFICATE OF INSURANCE which shall be provided by the Contractor's insurance company as evidence of the stipulated coverages.

Proof of insurance shall be either emailed in PDF format to: [riskmgmt@sanjoseca.gov](mailto:riskmgmt@sanjoseca.gov), or mailed to the following postal address

CITY OF SAN JOSE  
Human Resources, Risk Management  
200 East Santa Clara Street, 2<sup>nd</sup> Floor Wing  
San Jose, California 95113-1905  
(408) 535-7060  
FAX (408) 286-6492

G. **Subcontractors**

Contractors shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.



## CERTIFICATE OF DEPOSIT (CD) REQUIREMENTS

Department of Public Works, Development Services  
200 East Santa Clara Street, San Jose, CA 95113  
(408) 535-3555

Certificates of Deposit (CD) are used as a security deposit to guarantee repair and/or replacement of public improvements damaged during work initiated under a permit issued by Development Services. If the permit for which you are applying allows for the use of a CD as the security deposit, please ensure that it meets all of the requirements listed below. CD's presented which do not meet all of these requirements will be returned to the applicant for correction, potentially delaying issuance of the permit.

The requirements for Certificates of Deposits are as follows:

- 1) Submitted CD must be on an original bank form (i.e. screen prints, photocopies, faxes, etc. are not acceptable).
- 2) Must be payable to the City of San Jose.
- 3) Must be non-negotiable (***non-negotiable must be imprinted on CD***)
- 4) Must show the maturity date of the CD.
- 5) The initial term of the CD must be at least 90 days with an automatic renewal provision.
- 6) Must show the interest rate of the CD.
- 7) Must list the Permittee or Contractor as the depositor.
- 8) Interest will be paid directly to the depositor at maturity, **NOT** the City of San Jose. The interest must not be capitalized or added to the CD account at anytime.
- 9) Must be issued by a local bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) or a FDIC insured bank with a local branch. (***FDIC must be imprinted on CD***). Local is defined as a bank within the County of Santa Clara for an affiliated out of county bank.
- 10) In order to be covered by FDIC insurance, the principal plus expected interest to be earned should not exceed the insurance limit of \$100,000.

The Department of Public Works will maintain control over the CD until completion of the project. In the event the Permittee refuses or fails to complete or repair the public street improvements of this permit, the Director of Public Works may, at her sole discretion, after giving written notice to the Permittee, use funds from the CD to pay the costs of construction or repair. Said cost for construction or repair shall include administration expenses. Upon the acceptance of said improvements, the unexpended portion of said deposit shall be returned to the Permittee who made the deposit.

There is a minimum 30-day workmanship and materials warranty period during which the CD is held. This period begins when Final Inspection is completed by the Public Works Inspector.