

Exhibit C-2 Insurance Terms

INSURANCE. The insurance requirements specified in this exhibit shall apply to Permittee and any subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that Permittee authorizes to work under this Agreement (hereinafter collectively referred to as "Agents"). Permittee is required to procure and maintain at its sole cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this Agreement. Permittee is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverages with appropriate limits and endorsements to cover such risks; the limit for the commercial general liability insurance in each subcontract shall not be less than \$2 million. To the extent that any Agent does not procure and maintain such insurance coverage, Permittee shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling Permittee's indemnity obligation as to itself or any of its Agents in the absence of coverage. In the event Permittee or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that the Permittee's insurance be primary without any right of contribution from the JPB. Prior to beginning work under this contract, Permittee shall provide the JPB with satisfactory evidence of compliance with the insurance requirements of this section.

1. Minimum Types and Scope of Insurance

A. Workers Compensation and Employers' Liability Insurance.

- 1) Workers Compensation with Statutory Limits and/or Federal Employers Liability ("FELA") coverage (whichever is applicable) to its employees, as required by the Federal Employer's Liability Act of 1908, applying to Interstate railroad employees, or, as required by Section 3700 et seq of the California Labor Code, or any subsequent amendments or successor acts thereto governing the liability of employers to their employees.
- 2) If FELA applies, it shall be in accordance with federal statutes and have minimum limits of \$10,000,000 per occurrence.
- 3) If the California Labor Code requiring Workers' Compensation applies, the Permittee shall also maintain Employer's Liability coverage with minimum limits of \$ 2 million.
- 4) Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:
 - Waiver of Subrogation.

B. Commercial General Liability Insurance.

Commercial General Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$2 million per occurrence or claim and a general aggregate limit of at least \$2 million. Such insurance shall cover all of Permittee's operations both at and away from the project site. Such insurance shall not have any exclusion for Cross Liability or Cross-Suits. In addition, for any construction or public works projects, the insurance shall not have any exclusion for Explosion, Collapse and Underground perils (xcu) and, for construction or demolition within 50 feet of railroad tracks, the contractual liability exclusion for liability assumed shall be deleted.

- 1) This insurance shall include coverage for, but not be limited to:
 - Premises and operations.
 - Products and completed operations.
 - Contractual liability.
 - Personal injury.
 - Advertising injury.
 - Explosion, collapse, and underground coverage (xcu).
 - Broad form property damage.
- 2) Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
 - Additional Insured.
 - Cross Liability or Severability of Interests Clause.
 - Primary and Non-Contributory wording.
 - Waiver of Subrogation.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

C. Business Automobile Liability Insurance.

Business Automobile Liability insurance providing bodily injury and property damage with a combined single limit of at least \$ 2 million per occurrence.

- 1) This insurance shall include coverage for, but not be limited to:
 - All Owned vehicles.
 - Non-owned vehicles.
 - Hired or rental vehicles.
- 2) Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
 - Additional Insured.
 - Primary and Non-Contributory wording.
 - Waiver of Subrogation.

D. Property Insurance.

Property insurance with Special Form coverage including theft, but excluding earthquake, with limits at least equal to the replacement cost of the property described below.

- 1) This insurance shall include coverage for, but not be limited to:
 - Permittee's own business personal property and equipment to be used in performance of this Agreement.
 - Materials or property to be purchased and/or installed on behalf of the JPB, if any.
 - Debris removal.
 - Builders risk for property in the course of construction.
- 2) Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:
 - Waiver of Subrogation.

E. Railroad Protective Liability Insurance.

Prior to commencing demolition, construction or remodeling, CONTRACTOR shall contact the JPB. The JPB shall obtain, at CONTRACTOR's sole cost and expense, Railroad Protective Liability insurance with limits of liability of \$2 million per occurrence and \$6 million in the aggregate. The named insureds shall be the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company.

Coverage shall be on the RIMA policy form and include, but not be limited to:

- Claims arising out of injury to or death of any person.
- Physical loss or damage to or destruction of property including the JPB's rolling stock and any resulting loss of use thereof.
- Coverage for supervisory acts of railroad employees.
- FELA coverage for railroad employees.
- All other railroads operating on the right-of-way.
- Pollution extension for fuels and lubricants brought onto the job location.

2. ENDORSEMENTS

A. Additional Insured.

The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, the operator of JPB's passenger commute service, currently TransitAmerica Services, Inc., and the Union Pacific Railroad Company and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

B. Waiver of Subrogation.

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, the operator of JPB's passenger commute service, currently TransitAmerica Services, Inc., and the Union Pacific Railroad Company and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

C. Primary Insurance.

The referenced policies and any Excess and Umbrella policies shall indicate that they are primary to any other insurance and the insurance company(-ies) providing such policy(-ies) shall be liable thereunder for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by the JPB.

D. Severability of Interests or Cross Liability.

The referenced policies and any Excess or Umbrella policies shall contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, the operator

of JPB's passenger commute service, currently TransitAmerica Services, Inc., and the Union Pacific Railroad Company as Additional Insureds shall not in any way affect the JPB's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the Permittee. Said policy shall protect Permittee and the JPB in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

E. Joint Loss Payee Endorsement.

The JPB shall be named as a Joint Loss Payee on the Permittee's Employee Dishonesty policy.

3. EVIDENCE OF INSURANCE

A. All Coverages except Railroad Protective.

Prior to commencing work or entering onto the Property, Permittee shall provide the Risk Manager of the JPB with a certificate evidencing coverage, and upon request, a certified duplicate original of the policy. The certificate shall also show that the Permittees' policy(-ies) will not be cancelled or coverage altered without 30 days prior written notice to the JPB's Risk Manager.

B. Railroad Protective.

Prior to commencing work or entering onto the Property, Permittee shall confirm that it has paid the premium for said insurance.

4. GENERAL PROVISIONS

A. Notice of Cancellation.

The policies shall provide that the Permittees' policies will not be cancelled or have limits reduced or coverage altered without 30 days prior written notice to the JPB's Risk Manager.

B. Acceptable Insurers.

All policies will be issued by insurers acceptable to the JPB (generally with a Best's Rating of A-X or better).

C. Self-insurance.

Upon evidence of financial capacity satisfactory to the JPB and Permittee's agreement to waive subrogation against the JPB respecting any and all claims that may arise, Permittee's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

D. Failure to Maintain Insurance.

All insurance specified above shall remain in force until all work to be performed is satisfactorily completed, all of Permittee's personnel and equipment have been removed from the JPB property, and the work has been formally accepted. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

E. Claims Made Coverage.

If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- (1) Policy retroactive date coincides with or precedes the Permittee's start of work (including subsequent policies purchased as renewals or replacements).
- (2) Permittee shall make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all named insureds.
- (3) If insurance is terminated for any reason, Permittee agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed in connection with this Agreement.
- (4) Policy allows for reporting of circumstances or incidents that might give rise to future claims.

F. Deductibles and Retentions.

Permittee shall be responsible for payment of any deductible or retention on Permittee's policies without right of contribution from the JPB.