

**ATTACHMENT II**  
**PROFESSIONAL AND CONSULTING SERVICES INSURANCE REQUIREMENTS**

Brooks will require that the insurance requirements contained in this Appendix be included in all its contracts or agreements for Public Improvements where Consultant is seeking payment under this Contract, unless specifically exempted in writing by Brooks.

1. Prior to the commencement of any work under this Contract, Consultant shall furnish copies of all required endorsements and the original completed certificate(s) of insurance to Brooks. The original certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. Brooks will not accept a memorandum of insurance or binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to Brooks at the address listed in paragraph 5.

2. Brooks shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by Brooks. No officer or employee, other than Brooks' Procurement Manager, shall have authority to waive this requirement.

3. Brooks reserves the right to review the insurance requirements of this Appendix during the effective period of this Contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by Brooks' Procurement Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. In no instance will Brooks allow modification whereupon the Brooks may incur increased risk.

4. Consultant's financial integrity is of interest to Brooks, therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the Consultant, shall obtain and maintain in full force and effect during the construction of all public improvements, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, **by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:**

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors* c. Products/completed operations d. Personal Injury e. Contractual Liability	For Bodily Injury and Property Damage of \$1,000,000 per occurrence;  \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence

5. Professional Liability (Claims Made Form)	\$1,000,000 per claim to pay on behalf of the insured all sums, which the insured shall become legally obligated to pay as damages to the extent caused by any negligent act, error or omission in the performance of professional services.
6. Contract's Pollution Liability* N/A	\$1,000,000 per occurrence
7. Builders Risk* N/A	100% value of each phase of project
*if applicable	

**To ensure that Consultant insurance meets the AM Best rating of no less than A- please go to the AM Best website ([www.ambest.com](http://www.ambest.com)) or contact them at 908-439-2200. For Workers' Compensation only, Brooks will accept insurance written through a State Fund (Documentation must be provided).**

5. Brooks shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by Brooks and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties thereto or the underwriter of any such policies). Consultant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to Brooks at the addresses provided below within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes.

Brooks Development Authority  
 Attn: Procurement Manager  
 3201 Sidney Brooks  
 San Antonio, Texas 78235

6. Consultant agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- a. Name Brooks and their respective officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under this Agreement, with the exception of the workers' compensation and professional liability policies;
- b. Provide for an endorsement that the "other insurance" clause shall not apply to Brooks where Brooks is an additional insured shown on the policy;
- c. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of Brooks; and
- d. Provide thirty (30) calendar days advance written notice directly to Brooks at the same address listed in paragraph 5 of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

7. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement certificate of insurance and applicable endorsements to Brooks at the address listed in paragraph 5. Brooks shall have the option to suspend Consultant's performance should there be a

lapse in coverage at any time during this Contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Contract.

8. In addition to any other remedies Brooks may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, Brooks shall have the right to order Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

9. Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's performance of the work covered under this Contract.

10. It is agreed that Consultant's insurance shall be deemed primary with respect to any insurance or self-insurance carried by Brooks for liability arising out of operations under this Contract.

11. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Contract.

12. Consultant agrees to obtain all insurance coverages with minimum limits of not less than those limits delineated in Appendix C, paragraph 4, from each subcontractor to Consultant and provide a certificate of insurance and endorsement that names Brooks as an additional insured.

#### **WORKERS COMPENSATION INSURANCE COVERAGE**

1. Definitions:

- a. Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on the Contract for the duration of the project.
- b. Duration of the Contract - includes the time from the beginning of the work of each task order until the Consultant's work on each task order has been completed and accepted by Brooks.
- c. Persons providing services on each task order ("subcontractor" in §406.096 of the Texas Labor Code) - includes all persons performing all or part of the services Consultant has undertaken to perform on each task order, regardless of whether that person contracted directly with Consultant and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on each task order.

2. Consultant shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all its employees providing services on each task order, for the duration of each task order.

3. Consultant must provide a certificate of coverage to Brooks prior to beginning services under this Contract or any subsequent task order.

4. If the coverage period shown on Consultant's current certificate of coverage ends during the duration of the Contract, Consultant must, prior to the end of the coverage period, file a new certificate of coverage with Brooks showing that coverage has been extended. Failure to submit a new certificate within 30 days is grounds for termination.

5. Consultant shall retain all required certificates of coverage for the duration of the Contract and for one year thereafter.

6. Consultant shall notify Brooks in writing by certified mail or personal delivery, within 10 days after Consultant knew or should have known, of any change that materially affects the provision of coverage of any person providing services on each task order.

7. Consultant shall post a notice, at the Consultants place of business, in the text form and manner prescribed by the Texas Workers' Compensation Commission; informing all persons providing services under this Contract are required to be covered, and stating how a person may verify coverage and report lack of coverage.

8. Consultant shall contractually require each person with whom it contracts to provide services on the Contract, to:

- a. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the project;
- b. provide to Consultant a certificate of coverage, so Brooks will have on file, prior to that person beginning work on each task order showing that coverage is being provided for all employees of the person providing services on each task order, for the duration of the project;
- c. provide Consultant, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the task order;
- d. retain all required certificates of coverage on file for the duration of the task order and for one year thereafter; and
- e. notify Brooks in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the task order.

9. By signing this Contract or providing or causing to be provided a certificate of coverage, Consultant is representing to Brooks that all employees of Consultant who will provide services on each task order will be covered by workers' compensation coverage for the duration of the task order, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier. Providing false or misleading information may subject Consultant to administrative penalties, criminal penalties, civil penalties, or other civil actions.

10. Consultant 's failure to comply with any of these provisions is a breach of Contract by Consultant which entitles Brooks to declare the Contract void if Consultant does not remedy the breach within ten (10) days after receipt of notice of breach from Brooks without necessity of the cure period as set forth in Section 13 of the Contract.

Consultant shall deliver to Brooks, with copies to each named additional insured indicated, certificates of insurance (and other evidence of insurance requested by Brooks or any other named additional insured) which Consultant is required to purchase and maintain in accordance with this Appendix.

***Consultant acknowledges receipt of the insurance requirements, and understands it will be incorporated into any contract awarded.***

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**Consultant Signature & Title**

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**Date**