

DRAFT AIA® Document A133® – 2019

Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the « » day of « » in the year «Two Thousand Twenty-Three»

(In words, indicate day, month and year.)

for the following PROJECT:

(Name and location or address)

«Additions and renovations to East Central High School, East Central Middle School, Bright Elementary School, North Dearborn Elementary School, and Sunman Elementary School.»

« »

THE OWNER:

(Name, legal status, and address)

«Sunman-Dearborn Community School Corporation»« »
«1 Trojan Road, Suite B»
«St. Leon, IN 47012»

THE CONSTRUCTION MANAGER:

(Name, legal status, and address)

« »« »
« »

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ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for ~~Construction~~Construction, as modified.

ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and upon Construction Manager's request provide evidence of the coverage, required under this

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.

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Article B.2 and, upon the Construction Manager’s request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner’s usual general liability insurance.

§ B.2.3 Required Property Insurance

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk “all-risks” completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost ~~basis~~, basis or other appropriate property insurance. The Owner’s property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner and may include the interests of the ~~Owner~~, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance ~~shall may~~ include the interests of mortgagees as loss payees. Construction Manager's tools, equipment and other personal property shall be Construction Manager's responsibility and are not covered under the Owner's property insurance.

§ B.2.3.1.1 Causes of Loss. The insurance required by this Section B.2.3.1 ~~shall may~~ provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance ~~shall may~~ also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss

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Sub-Limit

§ B.2.3.1.2 Specific Required Coverages. The insurance required by this Section B.2.3.1 ~~shall may~~ provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance ~~shall may~~ also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect’s and Construction Manager’s services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage

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Sub-Limit

§ B.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ B.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or ~~retentions~~, retentions with the exception that the Construction Manager shall pay the first ten thousand dollars (\$10,000) of such deductibles if such claim was caused in whole or in part by the Construction Manager or its subcontractors, whatever tier, or its suppliers, whatever tier. For the avoidance of doubt, any such amounts paid by the Construction Manager towards the deductible up to \$10,000 shall be chargeable by Construction Manager as a Cost of the Work.

§ B.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance

company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ B.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall ~~may~~ purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, “all-risks” property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ B.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- [] § B.2.4.1 **Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.
- [] § B.2.4.2 **Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- [] § B.2.4.3 **Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- [] § B.2.4.4 **Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- [] § B.2.4.5 **Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- [] § B.2.4.6 **Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- [] § B.2.4.7 **Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects,

engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

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§ B.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[<< >>] **§ B.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

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[<< >>] **§ B.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

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ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance from the Construction Manager and upon request its Subcontractors acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies. The Construction Manager shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.3. The Construction Manager shall provide such written notice within five (5) business days of the date the Construction Manager is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first. In addition and per Ind. Code 22-3-2-14, the Construction Manager shall obtain from the Indiana Workers Compensation Board a certificate that the Construction Manager has workers compensation insurance for its employees and provide a copy of such certificate to the Owner prior to performing any Work on the Project site.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability on a CG 2026 11 85 and a CG 2037 10 01 or equivalent form, automobile liability, pollution and umbrella liability coverage for itself and its Subcontractors to include (1) the Owner, the Owner's building corporation, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the ~~Construction Manager's negligent acts or omissions-actual or alleged negligent acts or omissions of the Construction Manager, Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable,~~ during the Construction Manager's operations; and (2) the Owner ~~as an additional insured and Owner's building corporation as additional insureds~~ for claims caused in whole or in part by the ~~Construction Manager's negligent acts or omissions-actual or alleged negligent acts or omissions of the Construction Manager, Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable,~~ for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and

completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ B.3.2 Construction Manager's Required Insurance Coverage

§ B.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

«two (2) years after either 90 days following Substantial Completion of the entire Work or final payment, whichever is earlier.»

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project (on an ISO CG 0001 form or equivalent) for the Project, including coverage for Premises-Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability, and Personal Injury, and written on an occurrence form with policy limits of not less than « (\$) each occurrence, (\$) general aggregate, and (\$) aggregate for products-completed operations hazard, One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) job site aggregate, One Million Dollars » « (\$1,000,000 ») personal and advertising injury «Two Million Dollars » (\$ «2,000,000 » products completed operations aggregate « » » » providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ B.3.2.2.3 The policy shall be endorsed to have the Job Site Aggregate apply to this Project only and shall also provide a \$5,000,000 general aggregate. The contractual liability insurance shall include coverage sufficient to meet the obligations in modified AIA Document A201-2017 under Section 3.18. The coverage shall apply to the Construction Manager's operations under the Agreement, whether such operation by the Construction Manager or by

a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

§ B.3.2.3 Automobile Liability covering vehicles owned, hired and non-owned vehicles used, by the Construction Manager, with policy limits of not less than One Million Dollars (« \$1,000,000 ») per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ B.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ B.3.2.5 Workers' Compensation at statutory limits. Workers' Compensation insurance, including employer's liability, for all persons whom Construction Manager employs (or uses as subcontract labor if the Subcontractor is uninsured) in carrying out any Work. Such insurance shall be in strict compliance with the requirements of the most current and applicable workers' compensation insurance laws (State & Federal) in effect from time to time in Indiana. A waiver of subrogation in favor of the Owner and its building corporation and other additional insureds shall apply on the Workers' compensation policy.

§ B.3.2.6 Employers' Liability with policy limits not less than «One Million Dollars» (\$ «1,000,000») each accident, «One Million Dollars» (\$ «1,000,000») each employee, and «One Million Dollars» (\$ «1,000,000») policy limit.

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and ~~docks~~ docks.

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager and its design professional shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than «Two Million Dollars» (\$ «2,000,000») per claim and «Two Million Dollars» (\$ «2,000,000») in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than «Two Million Dollars» (\$ «2,000,000») per claim and «Two Million Dollars» (\$ «2,000,000») in the aggregate.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than «Two Million Dollars» (\$ «2,000,000») per claim and «Two Million Dollars» (\$ «2,000,000») in the aggregate.

§ B.3.2.11 ~~Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than \$ () per claim and \$ () in the aggregate.~~ Intentionally Omitted. «_»«_»

§ B.3.2.12 ~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than \$ () per claim and \$ ()~~ Intentionally Omitted. «_»«_»«_»«_»

§ B.3.2.13 Umbrella or Excess Liability coverage with policy limits and other requirements as follows: \$5,000,000 over primary General Liability, Automobile Liability and Employer's Liability insurance, and \$10,000 retention for self insured hazards each occurrence. Coverage shall be no less broad than the primary insurance. Additional insured on primary non-contributory basis shall follow underlying.

§ B.3.2.14 The insurance requirements set forth will in the aggregate no way be intended to modify, reduce, or limit the indemnification obligations made by Construction Manager under the Contract Documents. Any actions, errors or omissions that may invalidate coverage for the Construction Manager insured shall not invalidate or prohibit coverage available to the insured parties.

§ B.3.3 Construction Manager's Other Insurance Coverage

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[] **§ B.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

(Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

« »

[] **§ B.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for Work within fifty (50) feet of railroad property.

[] **§ B.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[] **§ B.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[] **§ B.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment. Such insurance shall insure Construction Manager's own personal property on a replacement cost basis on a Special Causes of Loss form and shall expressly waive any and all rights of subrogation against the Owner and Owner's building corporation.

[] **§ B.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

« »

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager represents and warrants to the Owner that it has the ability to provide payment and performance bonds to the Owner in the amount of the Owner’s budget for the construction of the Project and that it has provided to the Owner proof of such ability. The Construction Manager shall at the time of an early release construction package authorized by the Owner by a written amendment to the Agreement or when the Guaranteed Maximum Price Amendment is executed by the Contractor, whichever date is earlier, provide to the Owner surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	<u>«100% of the Guaranteed Maximum Price »</u>
Performance Bond	<u>100% of the Guaranteed Maximum Price</u>

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement. The payment bond shall include the provisions required by applicable law including but not limited to Ind. Code 5-32-6-1 and Ind. Code 36-1-12-13.1 and the performance bond shall include the provisions required by applicable law including but not limited to Ind. Code 5-32-6-2 and Ind. Code 36-1-12-14. The surety executing these bonds shall appear on the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in Circular 570 (amended) by the U.S. Department of the Treasury, and shall be licensed to conduct business in the State of Indiana. The Construction Manager shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

«Unless otherwise agreed to in writing by the Owner, Construction Manager shall at a minimum require that its Subcontractors and Sub-Subcontractors maintain workers compensation at the statutory limits and commercial general liability insurance with policy limits of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, automobile liability with policy limits of at least \$1,000,000 combined single limit, that appropriate umbrella/excess insurance be maintained, and that the Owner, the Owner's building corporation, the Architect, and the Architect's consultants be named as additional insureds on such commercial general liability, automobile liability and umbrella/excess insurance policies and such coverage shall be primary and non-contributory. »