

2. Whether installation of the Facility Improvement performs work deemed necessary by E-470 or a Contractor for future expansion or use of the E-470 Highway; and
3. Whether installation of the Facility Improvement is compatible with use by E-470 and poses no risk of danger to travelers on the E-470 Highway.

2.04 Administrative Review Fees – When Required

- a. E-470 shall charge and collect from Persons applying for permits to use E-470's Property, for any use including without limitation landscaping, an administrative review fee in an amount to be determined by the Executive Director, which is in addition to the permit fee, if any.
- b. Upon written application to the Director of Engineering and Maintenance by a Person wishing to use E-470 Property for a Surface Improvement, and upon recommendation by the Director of Engineering and Maintenance, the Executive Director may waive or partially waive the administrative review fee due E-470 for reviewing applications to use E-470 Property for purposes other than Utility Improvements, such purposes to include by way of illustration but not limitation: erecting temporary traffic control devices, when, and if, the Executive Director determines such waiver is merited.

2.05 Insurance / Bonding Requirements

- a. E-470 requires a Certificate of Insurance and a Payment and Performance Bond, (where required by permit or agreement) prior to authorizing commencement of any work on E-470 Property.
- b. Permittee and its contractor(s) shall procure, at their own expense, and maintain for the duration of the work period, the following minimum insurance coverage:
 1. General Requirements. Permittee shall acquire and maintain in full force and effect, during the entire term of the Permit, including any extensions hereof, and at any time thereafter necessary to protect E-470, its directors, employees, agents, consultants and Permittee from claims that arise out of or result from the operations under the Permit by Permittee or any of its subcontractors or material suppliers, agents or employees or anyone acting on the Permittee's behalf or for which Permittee may be liable, the coverages set forth in Section 2.05(b)(2). All insurance is to be placed with insurance carriers licensed in the State of Colorado with an A.M. Best and Company rating of no less than A-(X) or as otherwise accepted by E-470. Permittee's insurance shall provide that the insurer will give E-470 sixty (60) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this Section 2.05.

2. Minimum Insurance Coverages:

- i) Workers' compensation insurance in accordance with applicable law, including employers' liability with minimum limits of \$100,000 each accident, \$500,000 Disease-Policy Limit, \$100,000 Disease each employee.
- ii) Commercial general liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each occurrence; \$2,000,000 general aggregate, and \$1,000,000 products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:
 - a) Premises and operations;
 - b) Personal injury liability;
 - c) Contractual liability
 - d) Property damage;
 - e) Products and completed operations;
 - f) Independent contractors coverage;
 - g) Explosion, collapse and underground (for contractors only);
 - h) Contractors' limited pollution coverage (for contractors only); and
 - i) Endorsement CG 2-503 or equivalent; general aggregate applies on a per project basis (for contractors only).
- iii) Commercial automobile liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned, and employee non-owned vehicles used at the Permit site.
- iv) Professional Liability – coverage in the amount of \$1,000,000 each claim and in the aggregate covering the negligent acts or omissions of the Consultant and/or its subcontractors in the performance of the Services (for professionals only).
- v) Excess Liability Coverage – Liability coverage inclusive of general liability, automobile liability and employers liability in the amount of at least \$5,000,000 combined single limit bodily injury and property damage, each occurrence: and \$5,000,000 in the aggregate. Separate aggregates need to be structured as found in the underlying coverages.
- vi) All coverages specified herein shall waive any right of subrogation against the Authority and its directors, officers and employees.

3. Additional Insured Parties. All policies (with the exception of workers' compensation and professional liability insurance) shall insure the interest of the Authority and its respective directors, officials, employees, agents, and consultants.

4. Certificates of Insurance. Prior to commencing any work under the Permit, the Permittee shall provide the Authority with a certificate or certificates evidencing the coverages identified on the face of the certificate with the Permit number for this Permit, the name of the project and a copy of the additional insured endorsement. If the Permittee subcontracts any portion(s) of the work, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance coverage, commercial general liability insurance coverage and automobile liability insurance coverage, in amounts satisfactory to E-470 and the Permittee and containing the "additional insured", "waiver of subrogation" and "cancellation" conditions found in this Section 2.05. If the coverage required expires during the term of the Permit, the Permittee and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least fifteen (15) days prior to expiration.
5. Additional Provisions. Each general liability policy and, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:
 - i) Permittee's insurance coverage shall be primary insurance with respect to the Authority and its directors, officers and employees. Any insurance maintained by the Authority (or its directors, officers and employees) shall be in excess of the Permittee's insurance and shall not contribute to it.
 - ii) Permittee's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.
6. Failure to Comply with Reporting Provisions. Any failure on the part of the Permittee to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Permittee to provide the required coverage to the Authority and its directors, officers and employees.
7. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Permittee the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years. Permittee agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. Permittee's failure to purchase such an extended reporting period as required by this Section shall not relieve it of any liability under the Permit. If the policy is a claims-made policy, the retroactive date of any such policy shall be not later than the date this Permit is executed by the parties hereto. If the Permittee purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Permit is executed by the parties hereto.
8. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Permittee's liability hereunder or to

fulfill the indemnification provisions and requirements of this Permit. Permittee shall be solely responsible for any deductible losses under the policy.

9. Additional Risks and Hazards. If the Authority requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, Permittee shall obtain such insurance, if available, in a form and for a cost approved by the Authority, and the cost thereof shall be charged to the Authority.

2.06 Indemnification of E-470

It is the policy of E-470 to obtain indemnification from all Persons who enter on to E-470 Property, including but not limited to Facility Owners, stating the following:

“Permittee shall indemnify, defend and hold harmless E-470 and each of the governmental entities that is now or may in the future become a party to E-470’s Establishing Contract, and each of its directors, employees, agents and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys’ fees), and liabilities, of, by or with respect to third parties (“any claims”) to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Permittee or any of its subcontractors or material suppliers, agents or employees, in connection with the Permit and/or the Permittee’s work hereunder. Further, the Permittee hereby agrees to indemnify, defend and hold harmless E-470 and each of its directors and employees from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs and expenses (including reasonable attorneys’ fees) and liabilities of, by or with respect to, third parties (“any claims”), arising directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Permittee, its employees, subcontractors, material suppliers or agents or employees, or the agents or employees of any subcontractors or material suppliers which causes or allows to continue a condition or event which deprives E-470 or any of its directors or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. Nothing in the Permit or in any actions taken by E-470 pursuant to the Permit shall be deemed a waiver of E-470’s sovereign immunity under the Colorado Governmental Immunity Act. Provided, however, that such Permittee shall not be liable for any claim, loss, damage, injury or liability arising out of negligence of E-470, its directors, employees, agents and consultants. The obligations of the indemnifications extended by the Permittee to E-470 under the Permit shall survive termination or expiration of the Permit.

Permittee’s defense, indemnification and insurance obligations shall be to the fullest extent permitted by law and nothing in the Permit shall be construed as requiring the Permittee to defend in litigation, indemnify or insure E-470 against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of E-470 or any third party under the control or supervision of E-470.”