

Memorandum

To: Planning Commission and Board of County Commissioners
From: Alan Goldich, Planner II
Date: March 9, 2021
Subject: Insurance requirements
Attachments:

- A Resolution Adopting an Administrative Policy for Routt County Insurance and Surety Requirements

Last year, the Board of County Commissioners updated the County's insurance and surety policy. This policy sets forth the insurance required to do business with the County. It also details what types of surety is acceptable for subdivision improvements, Oil & Gas bonds, etc. The update was precipitated by a change in state law and to consolidate two previously related policies. The governmental immunity limits in state law increased to \$1.1 million, which is the maximum amount that the County could get sued for. This maximum will increase from time to time. The policy requires the minimum insurance to be \$1.1 million, which will change in accordance with changes to state law.

This new policy resulted in the insurance requirements in the Zoning Regulations to be in conflict with the policy. Two sections are affected, Section 8.3.1 and Section 9.2.G. A specific number is no longer included which allows for flexibility for when the insurance requirements for the County change in the future.

Section 8.3.1

Existing language:

"The permittee shall provide evidence of liability insurance, in the amount of no less than \$1,000,000 per occurrence. The permittee shall notify the Routt County Planning Department of any claims made against the policy. Routt County shall be named as an additional insured on the policy."

Proposed language:

"The permittee shall provide liability insurance in compliance with the County's insurance and surety requirements policy then in effect. In addition to the requirements of the policy, the certificate of insurance shall include all permit numbers associated with the activity and permittee shall notify the Routt County Planning Department of any claims made against the policy."

Section 9.2.G

Existing language:

"Shall submit evidence of insurance for a minimum of \$1,000,000 to cover any damages to public and private property, and Routt County shall be named as an additional insured."

Proposed language:

“Shall provide liability insurance in compliance with the County’s insurance and surety requirements policy then in effect, to cover any damages to public and private property.”

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C. The Policy may be revised to reflect its policy number once assigned without further need for adoption by resolution.

ADOPTED this 15th day of September, 2020.

**BY THE BOARD OF COUNTY COMMISSIONERS OF ROUTT COUNTY,
COLORADO.**

DocuSigned by:
Tim Corrigan
3CC974508609454
Timothy V. Corrigan, Chair

Vote: M. Elizabeth Melton Aye Nay Absent
Timothy V. Corrigan Aye Nay Absent
Douglas B. Monger Aye Nay Absent

ATTEST:
DocuSigned by:
Kim Bonner
089494760C8C4B1
Kim Bonner
Routt County Clerk

**ROUTT COUNTY
ADMINISTRATIVE POLICIES AND PROCEDURES
Policy Number X.XX**

TITLE Insurance and Surety Requirements	Date of First Approval September 15, 2020
RESPONSIBLE DEPARTMENT County Attorney's Office	Date Last Revised

Purpose 1: To provide uniform criteria as to when liability insurance will be required of a third party when contracting with the County or as a condition for the use of County-owned or leased facilities.

Purpose 2: To provide uniform criteria for financial guarantees being submitted to the County in connection with County construction projects, subdivision and zoning approvals and permits and other situations in which the County requires the posting of a surety to secure payment or performance by third parties.

Department(s) Affected: All.

Waiver Authority, if any: The Board of County Commissioners, by delegation to the County Manager, reserves the right to waive the requirements established in this policy in particular cases in which it is established that the strict enforcement of this policy would result in a hardship to the user and would not be in the best interests of Routt County and its citizens.

I. Definitions:

- A. Commercial Use. A Commercial Use is any use for profit or where an admission fee or charge is made for the event by the user.
- B. Non-Commercial Use. A Non-Commercial Use is one where the user is a non-profit entity or civic group and where no admission fee or charge is collected by the user and the use is not intended to generate a profit for the entity or group.
- C. C.R.S. means the Colorado Revised Statutes.

II. Insurance Requirements for County Contracts and Use of County Facilities.

- A. All contractors, independent contractors, and service providers performing work or services pursuant to an agreement with the County ("Contractor") shall be required to carry general liability insurance as specified in Section II.C and any other type of insurance required for the particular type of work or service provided as determined by the contract project manager.

B. Individuals or entities proposing to use County facilities (“User”) shall be required to carry general liability insurance as specified in Section II.C if such use is commercial or if the use is non-commercial and involves an activity that poses the risk of physical injury. Non-commercial uses that do not involve an activity that poses the risk of physical injury, such as a meeting, shall not be required to carry insurance pursuant to this policy.

C. Minimum Insurance Requirements:

1. In all cases where insurance is required under this policy, the Contractor or User shall provide general liability insurance and any special coverages reasonably related to the intended use as may be required by the County in the following minimum amounts:

- \$1,100,000.00 per occurrence
- \$1,100,000.00 aggregate
- \$1,100,000.00 Products-Completed Operations if required based on use
- \$1,100,000.00 Personal and advertising if a commercial use
- \$50,000.00 Property damage and Fire
- \$25,000.00 Medical Expense

The County Manager is authorized to waive the requirement of \$25,000 medical expense coverage so long as at least \$5,000 per person medical expense coverage is provided subject to the aggregate and per occurrence limitations set forth above.

2. All insurance shall be issued by an insurance carrier authorized to do business in Colorado and otherwise acceptable to the County.
3. The insurance carrier issuing the insurance must have a current Best’s Rating of “A” or better.
4. The certificate of insurance shall name Routt County, Colorado and the Board of County Commissioners of Routt County as an additional insured and certificate holder.
5. The Contractor shall deliver a certificate of insurance to the contract project manager or, in instances of County facility use, the User shall deliver a certificate of insurance to the facility manager at least 24 hours prior to the date and time of the use.
6. Contractor or User shall immediately provide County written notice in the event any portion of the insurance coverage required is cancelled or if the insurer gives notice of its intent to cancel such insurance.

III. Surety Types, Criteria, and Maintenance.

A. Types of surety or financial guarantees acceptable to the County in order of preference.

1. **Bond.** A form of security in which a surety guarantees against the failure of its principal (typically a permittee or contractor) to meet its obligations under the terms of the permit, approval, or contract. Types of bonds include bid bonds, performance bonds, payment bonds, and reclamation bonds.
2. **Letter of Credit.** An instrument issued by a third party for the benefit of the County promising to pay up to a specified sum to cover the cost to the County of completing work required by a land use approval or a permit which is not completed by the applicant in accordance with the terms of the approval or permit.
3. **Cash or Certificate of Deposit with a Security Agreement.** A written agreement between a land use approval or a permit applicant and the County which sets forth the terms controlling the surety deposit made by the applicant to secure their performance of the approval or permit requirements.

B. Criteria.

1. The financial guarantee must comply with any applicable law or regulation. For example, public works contract exceeding \$50,000 must be in the form of a bond pursuant to C.R.S. § 38-26-105.
2. The guarantor issuing a bond must have a current Best's Rating of "A" or better.
3. The guarantor must be located in the United States and regularly do business in the State of Colorado.
4. The financial guarantee or agreement must provide that jurisdiction for any action on the surety shall be in the Routt County District Court, Routt County Court or the U.S. District Court for the District of Colorado.

C. Maintenance.

1. All original documents relating to a surety or financial guarantee shall be located with the department responsible for issuing an approval or permit. In the case of surety required by a contract, all original documents shall be located with the Purchasing Department. Copies of surety documents shall be provided to the County Attorney's Office at the time of acceptance.
2. The department responsible for issuing an approval or permit or the Purchasing Department may issue a release of the surety only after documenting the reason for the release and with approval of the County Attorney's Office.
3. Any request to draw on a financial guarantee must be approved by the County Attorney's Office.