

2019 K-12 & CCC CONSTRUCTION RISK SUMMIT



THE STRUGGLE OF RISK IS REAL

**IS THEIR RISK? PROTECTING YOUR DISTRICT THROUGH
INSURANCE AND INDEMNITY PROVISIONS**

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PROJECT RISKS

- **Contract Risk Allocation** (Not Subject to Insurance Coverage)

- Project construction cost overruns
- Project completion delays
- Contractor performance/default

- **Insurable Risks**

- General
 - Worker injury, illness (Workers Compensation)
 - Personal injury/property damage (General Liability)
 - Motor vehicle personal injury/property damage (Automobile Liability)
- Design Services
 - Professional liability (Errors & Omissions)
- Construction
 - Environmental damage (Pollution Liability)
 - Project damage (Builder's Risk)



CONTRACTUAL INDEMNITY

- **Established by Contract Terms**
- **Design Professional/Design Services**
 - Civil Code §2782.8; limitation of indemnity obligations to proportionate liability
 - Professional liability insurance and design professionals' indemnity obligations
- **Contractor Indemnity**



INDEMNITY CLAUSE ELEMENTS

- **Indemnified Parties; who is covered by the indemnity obligations**
- **What triggers indemnity obligations**
- **Scope of indemnity; types of claims covered**
- **Obligation to defend Indemnified Parties?**
- **Expiration of indemnity obligations**
- **Contractor surety liability?**





INSURANCE; PROJECT PARTICIPANTS

- **Project Design**

- Architect
- Architect Design Consultants
- District Consultants

- **Construction**

- Contractor
- Subcontractors
- Project Services
 - Construction Manager
 - Project Inspector
 - Test/Inspection Services
 - Special Consultants



CONTRACT TERMS ESTABLISHING INSURANCE REQUIREMENTS

- **Required Policies of Insurance**
- **Minimum Coverage Limits**
- **Contractor/Architect Insurance Primary**
- **Insurer Qualifications**
- **COI and COI Submittal**
- **Subrogation Waivers**
- **Additional Insureds**

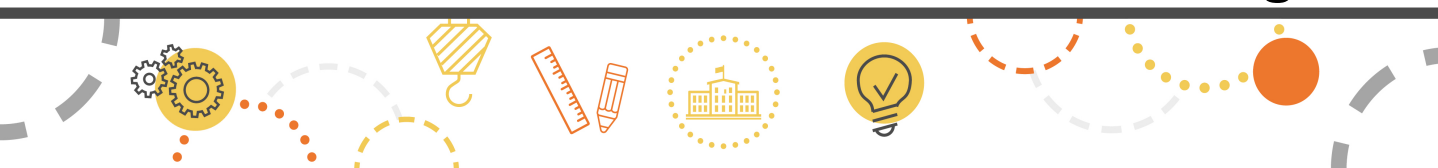
INSURANCE TERMS PRIMER

- **Insurer, Insured, Additional Insured**
- **Occurrence/Claims-Made Policies**
- **Coverage Limits**
 - Per occurrence/claim
 - Aggregate
- **ISO Policy Terms**
- **Modification, Cancellation, Expiration**
- **Contractual Limits of Liability and Policy Coverage Limits**
- **Excess Liability**



CONSTRUCTION PHASE INSURANCE

- **Workers Compensation/Employers Liability**
- **General Liability**
 - Property damage; defective work
- **Builders Risk**
 - District obtained/Contractor obtained
 - Seismic risks; Public Contract Code §7105 limit on Contractor liability
 - Deductible responsibility
 - Secondary items coverage (temporary forms, scaffolding, etc.)
- **Pollution Liability**
 - Occurrence/Claims Made
 - Coverage Scope
 - Coverage requirement and Project scope
- **Special circumstances**
 - Hazardous Materials
 - Cranes
- **Earthwork; Subsidence; Shoring**



DISTRICT PROCURED OCIP INSURANCE; CONTRACTOR PROCURED INSURANCE

- **OCIP Insurance**

- District procured and District paid premiums for construction phase insurance
- Coverages
 - Site Workers Compensation
 - Contractor/Subcontractor General Liability
 - Builders Risk
- Contractor/Subcontractor Enrollment

- **Contractor/Subcontractors Procured Insurance**

- Premiums incorporated into bid pricing



CLAIMS ADJUSTMENT

- **Contractor procured insurance**

- Multiple policies
- Subrogation
- Civil Code §2782.05

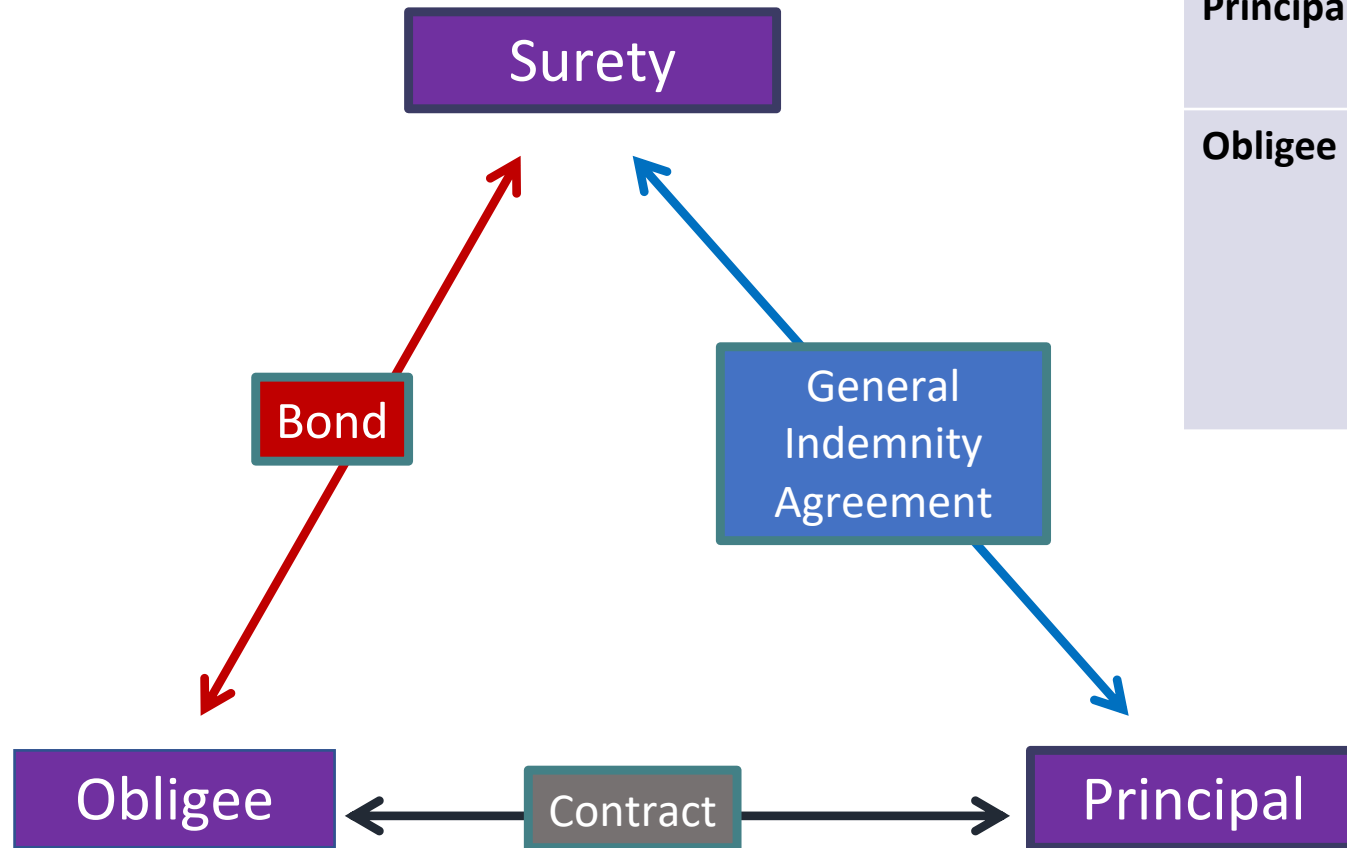
- **OCIP**

- Single point of contact
- Single policy
- No subrogation



SURETY BONDS

Surety	Bond issuer; commitment to perform or pay money if the Principal fails to perform or pay as promised by Principal
Principal	Party committing to a third party to perform act or complete service
Obligee	Party to whom Principal has made commitment to act or complete services; entitled to payment or performance by Surety on failure of Principal



A decorative graphic on the left side of the slide, featuring a collection of icons related to construction, business, and legal processes. The icons include a building, a hammer and wrench, a worker in a hard hat, a warning sign, gears, a hand holding a document, a lightbulb, a pencil and ruler, and a measuring tape. The icons are arranged in a cluster with some overlapping and are rendered in orange and yellow colors.

BOND TERMS & CONDITIONS

- **Obligee; Surety; Principal**
- **Penal Sum**
- **Conditions to Surety Obligations**
- **Notice; Waivers of Notice**
- **Bond Enforcement; Attorneys' Fees**

BOND BEST PRACTICES

- **Single Premium Construction Bonds**
 - Bid Bond, Labor & Materials Payment Bond, Performance Bond
- **Surety Qualifications**
 - Admitted Surety Insurer
 - AM Best Rating
- **Signature Authenticity**
 - Principal; Surety Attorney-In-Fact; Surety Resolutions
 - Notary Public
- **Verify Issuance**

