

## X.1.2-B - Difference in Coverage

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**From:** Owner's Insurance Risk Rep  
**Sent:** Monday, November 16, 2015 1:38 PM  
**To:** Some Guy  
**Cc:** Other Person, Owner Gal  
**Subject:** RE: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Hello, All:

With regard to evidence of the deductible, I do not yet have the policy with the deductible schedule; however, the applicable project deductibles (per occurrence) are:

GL Deductible:	\$50,000
Water Damage Deductible:	\$50,000
Earth Movement Deductible:	5%/\$100,000 minimum
Flood Deductible:	\$50,000

Total premium for Builder's Risk will be \$190,137

I do have a call into the broker as to the status of receiving the Master Policy in order to have the official deductible schedule on file and will forward as soon as I receive.

Owner's Insurance Risk Rep

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**From:** Owner Gal  
**Sent:** Monday, November 16, 2015 1:49 PM  
**To:** Builder Dude, Worker Bee  
**Subject:** FW: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Please see below. We don't have the actual policy in hand yet, but our risk rep listed the deductible schedule out in e-mail.

Owner Gal  
Director,  
Planning, Design and Construction

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**From:** Builder Dude  
**Sent:** Tuesday, November 17, 2015 2:46 PM  
**To:** Owner Gal, Worker Bee  
**Subject:** RE: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Owner Gal – I would like to confirm that contractually, the design builder is responsible for \$5,000 deductible on builders risk items?

Can you confirm?

**Builder Dude**  
Operations Manager

226 Airport Parkway, Suite 150  
San Jose, California 95110



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**From:** Owner Gal  
**Sent:** Tuesday, November 17, 2015 3:09 PM  
**To:** Builder Dude, Worker Bee  
**Subject:** RE: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Builder Dude,

Took a quick look at the General Conditions - it does look like the design builder is responsible for the first \$5k of a loss. The NTE on the deductible (per the GCs) is \$100K.

Thanks,  
Owner Gal

Owner Gal  
Director,  
Planning, Design and Construction

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**From:** Worker Bee  
**Sent:** Friday, January 8, 2016 4:42 PM  
**To:** Builder Dude  
**Subject:** RE: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Hi Builder Dude,

As Owner Gal states, per GC Article 11.4 – the design builder is responsible for the first \$5k of a loss. Do we want to run this through F&P?

#### 11.4 Owner's Casualty Insurance.

(a) Owner shall procure and maintain in effect at all times during construction a standard all-risk builders' risk insurance policy providing coverage for fire, explosion, vandalism, malicious mischief and collapse, to the maximum extent available at a cost considered reasonable by Owner. At the Owner's option, in lieu of builder's risk insurance, the Work may be insured under the Owner's property insurance policy. Earthquake and flood insurance may be included at the option of Owner. Such insurance shall be in an amount equal to the replacement cost of the completed Work (without deduction for depreciation) as insured by the policy. This insurance, which may be subject to deductibles not to exceed \$100,000 per occurrence, shall cover building materials to be incorporated into the Work that are stored onsite, but shall not cover building materials that are off-Site or in transit, and shall not cover loss or damage to the tools, equipment, scaffolding, personal property or other items belonging to or rented by Design Builder or any Subcontractor which are not to be incorporated into the Work. Design Builder shall be responsible for the first \$5,000 of any loss in which Design Builder or a Subcontractor of any tier has an insurable interest.

(b) Any builder's risk policy shall name Design Builder and the Subcontractors of all tiers as named insureds, as their interests may appear,. All proceeds of any casualty insurance shall be payable to Owner, who shall collect, adjust and distribute such proceeds, compromise any and all claims thereunder and apply the proceeds of such insurance to the repair, reconstruction or replacement of the Project. Except for the \$5,000 per claim responsibility in Section 11.4(a) above, Owner waives its rights of recovery against Design Builder and the Subcontractors for any damage to the Work for which they may be responsible, but only to the extent the damage is insured by Owner's casualty insurance.

Thank you,

#### Worker Bee

Project Manager  
Construction Group  
Emeryville, CA 94608



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**From:** Builder Dude  
**Sent:** Monday, January 11, 2016 5:30 PM  
**To:** Insurance Guy  
**Cc:** Worker Bee  
**Subject:** FW: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Insurance Guy,

Wanted to get your opinion on the Emeryville Owner Provided risk insurance program. The contract we have holds the design builder to the first \$5k of loss (see excerpt highlighted below) even though the deductible from Emeryville insurance representative indicate their policy is sufficient, see email string below.

What do you recommend?

Thank you,

**Builder Dude**

Operations Manager  
226 Airport Parkway, Suite 150  
San Jose, California 95110

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**From:** Insurance Guy**Sent:** Tuesday, January 12, 2016 3:58 PM**To:** Builder Dude, Worker Bee**Subject:** RE: Emeryville Builder's Risk Policy - FOR YOUR RECORDS

Builder Dude and Worker Bee,

The \$5,000 deductible responsibility is for property damage *insured* by the Owner's Builders Risk coverage. The Owner only waives their right of recovery against Design Builder and Subcontractors for property damage to the extent it is insured by their Builders Risk coverage. Thus, property damage uninsured or underinsured by the Owner's Builders Risk coverage is the responsibility of the Design Builder and Subcontractors. Our review of the Owner's Builders Risk policy information previously provided (project certificate and binder) identified the following coverage sub-limits and limitations of concern that could be insured by a Difference in Coverage (DIC) policy:

- \$10,000,000 Earthquake and Flood sub-limits vs. DIC providing full limit
  - \$10MM is our assumption based upon the Owner's master policy binder and not actually knowing the policy Earth Movement Zone and Flood Level definitions.
- Terrorism coverage NOT purchased vs. DIC providing full limit.
- No coverage limit for Damage to Existing Building coverage vs. DIC providing \$5,000,000 sub-limit, otherwise the master program General Liability (GL) coverage will respond.
- \$250,000 Fungus, Mold, Mildew sub-limit vs. DIC providing \$1,000,000 sub-limit, otherwise the master program Contractor's Pollution Liability (CPL) coverage will respond.
- Other policy endorsements may be of concern, which are listed in the binder, but since we don't have copies of them to review we can't provide an opinion at this time.

Unless the contract is amended and Design Builder and Subcontractors are released from responsibility of property damage, whether or not insured by the Owner's Builders Risk coverage, we recommend Builders Risk DIC coverage be purchased for the reasons listed above.

Attached is an updated DIC Project Quote Sheet. We estimate the DIC premium to be \$88,818.

Please let me know what you decide to do.

Regards / Insurance Guy

**Insurance Guy**

Chief Sanitation Engineer

**Flood and Peterson**