

SUPPLEMENTARY CONDITIONS MODIFICATIONS TO GENERAL CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

SC-2.02 *Copies of Documents*

Delete Paragraph 2.02.A in its entirety and insert the following in its place:

- A. Contractor shall furnish their own drawings.

SC-2.03 *Commencement of Contract Times; Notice to Proceed*

Delete Paragraph 2.03.A of the General Conditions in its entirety and insert the following in it's place:

- A. The Contract Times will commence to run on the Effective Date of the Agreement, or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time after the Effective Date of the Agreement.

SC-4.02 *Subsurface and Physical Conditions*

Add the following new paragraphs immediately after Paragraph 4.02.B:

- C. The following reports of explorations and tests of subsurface conditions at or contiguous to the Site are known to Owner:

No additional reports regarding subsurface conditions are furnished for this Contract. Previous Geotechnical, Environmental, Archaeological and Traffic Reports have been furnished to Contractor.

SC-4.06 *Hazardous Environmental Condition at Site*

Add the following subparagraphs 4.06.A.1 and 4.06.A.2:

- A. The following reports regarding Hazardous Environmental Conditions at the Site are known to Owner:
1. None.

SC5.03 *Certificates of Insurance*

Delete Paragraph 5.03A in its entirety and replace with the following:

- A. Contractor shall deliver to Owner's Office of Risk and Safety with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase, maintain and deliver prior to the commencement of any work or service provided by this agreement. It shall be an affirmative obligation of the Contractor to advise City's Office of Risk and Safety at Fax No. 518.693.4070, e-mail Marilyn.Rivers@Saratoga-Springs.org or via mail to Office of Risk and Safety, City of Saratoga Springs, 474 Broadway, Saratoga Springs, NY 12866, within two days of the cancellation or substantive change of any insurance policy set out herein, and failure to do so shall be construed to be a breach of this Agreement.

Delete Paragraph 5.03B in its entirety.

SC-5.04 *Contractor's Liability Insurance*

Delete Section 5.04 in its entirety and replace with the following:

- A. All insurance policies required under this Agreement shall be issued by insurance companies authorized to conduct business under the laws of the State of New York. They shall be written for the benefit of the City of Saratoga Springs, NY; its elected and/or appointed officials, officers, agents, employees and for the Contractor. Said policies shall be effective until all work required or contemplated by the Agreement has been completed. Policies expiring on a fixed date before completion of the Contractor's duties under this Agreement must be renewed not less than 30 days before such expiration date. No policy shall be changed by endorsement without the knowledge and the written consent of the City and, in particular, any notice of cancellation by the insurer shall not be effective until 30 days after the said notice is actually received by the City. Any notice addressed to the City shall be mailed via certified or registered mail to the address set forth herein. The Contractor acknowledges that failure to obtain such insurance on behalf of the City constitutes a material breach of contract and subjects it to liability for damages indemnification and all other legal remedies available to the City.

- B. Before commencing work under this Agreement, the Contractor and each of its Subcontractors shall furnish to the City a certificate of insurance naming: the City of Saratoga Springs, NY; its elected and/or appointed officials, officers, agents and employees as an ***Additional Insured on a primary and non-contributory basis***. Failure to object to the contents of the certificate of insurance or the absence of same shall not be deemed a waiver of any and all rights held by the City. Such certificate shall be on forms acceptable to the City's Office of Risk and Safety Management showing that the Contractor has complied with these requirements. In addition, for policies expiring on a fixed date before completion of the Project, certificates showing renewal must be filed not less than 30 days before such expiration date.
- C. It shall be an affirmative obligation of the Contractor to advise the City's Office of Risk and Safety at Fax No. 518.693.4070, e-mail Marilyn.Rivers@Saratoga-Springs.org or mail via Office of Risk and Safety, City of Saratoga Springs, 474 Broadway, Saratoga Springs, NY 12866, within two days of the cancellation or substantive change of any insurance policy set out herein, and failure to do so shall be construed to be a breach of this Agreement.
- a. The Contractor shall procure and maintain during the term of this contract, at the Contractor's expense, the insurance policies listed in this Article with limits equal to or greater than the enumerated limits.
 - b. The Contractor shall be solely responsible for any self-insured retention or deductible losses under each of the required policies.
 - c. Every required policy, including any required endorsements and any umbrella / excess policy, shall be primary insurance. Insurance carried by the City of Saratoga Springs, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.
 - d. Every required coverage type shall be "occurrence basis" with the exception of Professional Errors and Omissions Coverage which may be "claims made" coverage.
 - e. The Contractor may utilize umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage (follow form).
 - f. The Office of Risk & Safety Management must approve all insurance certificates.
 - g. The City of Saratoga Springs reserves its right to request certified copies of any policy or endorsement thereto.
 - h. All insurance shall be provided by insurance carriers licensed & admitted to do business in the State of New York and must be rated "A-:VII" or better by A.M. Best (Current Rate Guide).

- i. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon the City of Saratoga Springs may exercise any rights it has in law or equity, including but not limited to the following: immediate termination of the contract;
 - (1.) withholding any/all payment(s) due under this contract or any other contract it has with the vendor (common law set-off); OR
 - (2.) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by the City of Saratoga pSprings shall be repaid upon demand, or at the City’s option, may be offset against any monies due to the Contractor.

D. Required Property and Casualty Insurance - Minimum coverage types and amounts:

The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers’ Compensation, and related coverages under Paragraphs 5.04.A.1 and A.2 of the General Conditions:

- a. State: Statutory
- b. Applicable Federal (e.g., Longshoreman’s): Statutory
- c. Employer’s Liability: \$100,000

2. Contractor’s General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

- a. General Aggregate \$2,000,000
- b. Products – Comp. Operations Aggregate: \$2,000,000
- d. Personal and Advertising Injury \$1,000,000 each occurrence/\$2,000,000 Aggregate
- e. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
- f. Property Damage liability insurance will provide Explosion, Collapse, and Under-ground coverages where applicable.
- g.. Excess or Umbrella Liability
 - 1. General Aggregate \$5,000,000
 - 2. Each Occurrence \$5,000,000

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

a. Combined Single Limit of \$1,000,000

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury:

1. Each person \$1,000,000

2. Each Accident \$2,000,000

b. Property Damage:

1. Each Accident \$1,000,000

2. Annual Aggregate \$2,000,000

SC-5.05 *Owner's Liability Insurance*

Delete SC-5.05 in its entirety.

SC-5.06 *Property Insurance*

Delete SC-5.06 in its entirety.

SC-5.07 *Waiver of Rights*

Delete SC-5.07 in its entirety.

SC5.08 *Receipt and Application of Insurance Proceeds*

Delete SC-5.08A in its entirety.

SC-5.10 *Partial Utilization, Acknowledgement of Property Insurer*

Delete SC-5.10 in its entirety.

SC-6.05 *Substitutes and "Or-Equals"*

Amend paragraph 6,05.C by making two subparagraphs under the Title C. Engineer's Evaluation. The second paragraph text is retitled, 6.05.C.2 After Effective Date of Agreement. A new paragraph is added before this paragraph to read as follows:

1. During Bidding, the Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or “or-equal” materials and equipment as defined in Paragraph 6.05 of the General Conditions, or those substitute or materials and equipment approved by the ENGINEER and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or “or-equal” item. Request for ENGINEER’s clarification of materials and equipment considered “or-equal” prior to the Effective Date of the Agreement must be received by the ENGINEER at least 5 days prior to the date for receipt of bids. No item of material or equipment will be considered by ENGINEER as a substitute unless written request for approval has been submitted by Bidder and has been received by ENGINEER at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. ENGINEER’s decision of approval or disapproval of a proposed item will be final. If ENGINEER approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

SC-6.06 *Concerning Subcontractors, Suppliers, and Others*

Replace 6.06G with the following paragraph:

- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

Add a new paragraph immediately after Paragraph 6.06.G:

- H. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by a particular Subcontractor or Supplier.

SC-6.10 *Taxes*

Add a new paragraph immediately after Paragraph 6.10.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of New York and of cities and counties thereof on all materials to be incorporated into the Work.
 1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.

2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-6.17 *Shop Drawings and Samples*

Add the following new paragraphs immediately after Paragraph 6.17.E:

- F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples, or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.
- G. In the event that Contractor requests a change of a previously approved item, Contractor shall reimburse Owner for Engineer's charges for its review time unless the need for such change is beyond the control of Contractor.

SC-9.03 *Project Representative*

Delete Paragraph 9.03.A and add the following in it's place:

- A. Resident Project Representative (RPR) will be supplied by the Engineer/Architect of Record for the General Design Build Contract for the Construction of the Parking Garage Project.

SC-11.01 *Cost of the Work*

Delete Paragraph 11.01.A.5 in its entirety.

SC-11.03 *Unit Price Work*

Delete Paragraph 11.03.D in its entirety and insert the following in its place:

- D. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 1. If the Bid price of a particular item of Unit Price Work amounts to 20 percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 30 percent from the estimated quantity of such item indicated in the Agreement; and
 2. If there is no corresponding adjustment with respect to any other item of Work; and
 3. If Contractor believes that Contractor has incurred additional expense as a result thereof or if Owner believes that the quantity variation entitles Owner to an

adjustment in the unit price, either Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

SC-12.01 *Change of Contract Price*

Delete the Paragraph 12.01.B.3 in its entirety.

SC-14.09 *Waiver of Claims*

Delete SC-14.09 Waiver of Claims in its entirety.

END OF SECTION