

DOCUMENT 00 7316

SUPPLEMENTARY CONDITIONS – INSURANCE AND INDEMNIFICATION

ARTICLE 1 - INSURANCE

- 1.01** At or before the date specified in Document 00 1119 (Request for Proposals), Contractor shall furnish to the City of Santa Clarita (“Owner”) satisfactory proof that Contractor has taken out for the entire period covered by the Contract the following classes of insurance in the form and with limits and deductibles specified below, unless otherwise specified in Contract Documents:
- A. Comprehensive General Liability Insurance covering claims for personal injury, bodily injury and property damage arising out of the Work and in a form providing coverage not less than that of a Standard Commercial General Liability Insurance policy (“Occurrence Form”). Such insurance shall provide for all operations and include independent Contractors, products liability, completed operations for one year after Final Completion and acceptance of the final payment for the Work, contractual liability, and coverage for explosion, collapse, and underground hazards. The limits of such insurance shall not be coverage of less than \$5,000,000 each occurrence, \$10,000,000 general aggregate limit, and \$10,000,000 aggregate for products and completed operations. The policies shall be endorsed to provide Broad Form Property Damage Coverage.
 - B. Comprehensive Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. Such insurance shall provide coverage not less than the standard Comprehensive Automobile Liability policy with limits not less than \$1,000,000 each person Bodily Injury, \$1,000,000 each occurrence Bodily Injury, and[\$1,000,000 each occurrence Property Damage.
 - C. All-Risk Course of Construction Insurance including damage to property owned by Owner, Contractor or third parties caused by fire. Insurance shall be in the amount of 100 percent of the completed value of the Work to be performed under this Contract. Deductible shall not exceed \$25,000.00. Each loss shall be borne by Contractor.
 - D. Workers’ Compensation Insurance for all persons whom the Contractor may employ in carrying out Work contemplated under Contract Documents, in accordance with the Act of Legislature of State of California, known as “Workers’ Compensation Insurance and Safety Act,” approved May 26, 1913, and all acts amendatory or supplemental thereto, in the statutory amount.
 - E. **[Optional]** Environmental Impairment Liability Insurance covering bodily injury and property damage utilizing an occurrence policy form, in an amount no less than **[\$1,000,000]** combined single limit for each occurrence.
- 1.02** All policies of insurance shall be placed with insurers acceptable to Owner. The insurance underwriter(s) for all insurance policies except Workers’ Compensation shall have an A. M. Best Company rating of **A-, VIII** or better, unless otherwise specified in Contract Documents. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of Owner, warrant such increase. Contractor shall increase required insurance amounts upon direction by Owner.
- 1.03** Required Endorsements: The policies required under Document 00 7253 (General Conditions) and this Document 00 7316 shall be endorsed as follows:

- A. Name Owner, its elected and/or appointed governing body and boards, employees, representatives, consultants, and agents, and Project Manager as additional insureds, but only with respect to liability arising out of the activities of the named insured.
 - B. Each such policy shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limit of the insurance company's liability required hereunder.
 - C. Insurance shall be primary to Owner and no other insurance or self-insured retention carried or held by Owner shall be called upon to contribute to a loss covered by insurance for the named insured.
- 1.04** Required Waiver of Subrogation: The policy required under this Document 00 7316 shall include a waiver as follows:
- A. For Workers' Compensation insurance, the insurance carrier shall waive all rights of subrogation against the City, its City Council, Officers, Directors, Officials, Agents, Employees, Representatives, Consultants (including without limitation Engineer), and Volunteers for losses arising from the performance of or the omission to perform any term or condition of this Agreement. Endorsement will include the policy number, named insured and policy term.
- 1.05** Declarations Pages Required. Contractor or its insurance broker shall submit a copy of the Declarations page for each policy under Section A. above. The page shall include the name of the carrier, the policy number, the types of coverage and limits, the effective dates of the policy, the broker's name and license number and a list of all coverage forms.
- 1.06** Certificates of insurance and endorsements shall have clearly typed thereon Owner Contract Number and title of Contract Documents. Written notice of cancellation, non-renewal, or reduction in coverage of any policy shall be mailed to Owner (Attention: Owner Risk Manager / Purchasing Agent) at the address listed in Document 00 5200 (Agreement), 60 Days in advance of the effective date of the cancellation, non-renewal, or reduction in coverage. Written notice of cancellation for non-payment shall be mailed within 10 Days of cancellation. Contractor shall maintain insurance in full force and effect during entire period of performance of Contract Documents. Contractor shall keep insurance in force during warranty and guarantee periods, except that Contractor may discontinue All-Risk Course of Construction Insurance after Final Payment. At time of making application for extension of time, and during all periods exceeding the Contract Time resulting from any cause, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time. Upon Owner's request, Contractor shall submit to Owner, within 30 Days, copies of the actual insurance policies or renewals or replacements.
- 1.07** Contractor shall pay all insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insureds. If Contractor fails to maintain insurance, Owner may take out comparable insurance, and deduct and retain amount of premium from any sums due Contractor under Contract Documents.
- 1.08** If injury occurs to any employee of Contractor, Subcontractor or sub-subcontractor for which the employee, or the employee's dependents in the event of employee's death, is entitled to compensation from Owner under provisions of the Workers' Compensation Insurance and Safety Act, as amended, or for which compensation is claimed from Owner, Owner may retain out of sums due Contractor under Contract Documents, amount sufficient to cover such compensation, as fixed by the Act, as amended, until such compensation is paid, or until it is determined that no compensation is due. If Owner is compelled to pay compensation, Owner may, in its discretion, either deduct and retain from the Contract Sum the amount so paid, or require Contractor to reimburse Owner.

- 1.09** Nothing herein shall be construed as limiting in any way the extent to which Contractor or any Subcontractor may be held responsible for payment of damages resulting from their operations.
- 1.010** All Subcontractors shall maintain the same insurance required to be maintained by Contractor with respect to their portions of the Work unless otherwise indicated in Contract Documents, and Contractor shall cause the Subcontractors to furnish proof thereof to Owner within ten Days of Owner's request.
- 1.011** The following provisions apply to any licensed professional engaged by Contractor to perform portions of the Work ("Professional").
- A. Each Professional shall maintain the following insurance, unless otherwise specified in Contract Documents:
1. Professional Liability Insurance, insuring against professional errors and omissions arising from Professional's Work on the Project, in an amount not less than \$2,000,000 combined single limit for each occurrence. If Professional cannot provide an occurrence policy, Professional shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than two years following Final Completion of the Project.
 2. Professional shall satisfy all other provisions of this Document 00 7316 relating to that insurance, including without limitation providing required insurance certificates (containing the required endorsements) before commencing its Work on the Project.

ARTICLE 2 - RESPONSIBILITY OF DESIGN-BUILDER AND INDEMNIFICATION

2.01 Design-Build Team's Responsibility for the Work.

- A. Except for damage caused by the sole negligence, willful misconduct or active negligence of Owner or its agents, Design-Build Team shall be solely responsible for any loss or damage that may happen to any part of the Work, materials or other things used in performing the work, injury, sickness, disease, or death of any person as a result of the Work, or resulting damage to property.
- B. Owner and each of its officers, employees, departments, officials, representatives, inspectors, consultants and agents including, but not limited to, the City Council, Construction Manager, Bridging Architect, and each Owner Representative, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants (all together, **Owner Parties**), shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person as a result of the Work; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, and Design-Build Team releases all of the foregoing persons and entities from any and all such claims.
- C. With respect to third-party claims against Design-Build Team, Design-Build Team waives any and all rights to any type of express or implied indemnity against each of the Owner Parties.

2.02 Claims Arising From the Work.

- A. To the furthest extent permitted by law (including without limitation California Civil Code Section 2782), Design-Build Team shall assume defense of, and indemnify and hold harmless, each of the Owner Parties, from and against claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Design-Build Team, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

- B. Design-Build Team's indemnity obligation shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall it apply to Owner or other indemnified party to the extent of its active negligence.
- C. In the event that a court of competent jurisdiction determines that California Civil Code Section 2782.8 applies to Design-Build Team's indemnity and defense obligations under this paragraph 2.02, as to the design-related services provided by Design-Build Team or its Subcontractors, then, with respect to such design-related services only, Design-Build Team shall assume defense of, and indemnify and hold harmless, each of the Owner Parties, from and against claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Design-Build Team or its Subcontractors in connection with the Work, Contract, or Project. However, irrespective of the applicability of California Civil Code Section 2782.8 as to design-related services, with respect to any non-design-related services (including without limitation construction services), Design-Build Team shall assume defense of, and indemnify and hold harmless, each of the Owner Parties, in accordance with the other provisions of this paragraph 2.02.

2.03 Scope of Indemnification Obligation.

- A. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Design-Build Team, its Subcontractors of any tier, or the officers or agents of any of them. In the event of loss, however, Design-Build Team shall give all required notices to all insurance carriers, and shall require its subcontractors to do the same. Owner may, in its discretion, request evidence of such notices from Design-Build Team.

2.04 Scope of Contract Limitations Of Liability.

- A. To the furthest extent permitted by law (including, without limitation, Civil Code Section 2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout Contract Documents shall apply even in the event of breach of contract, negligence (active or passive), fault or strict liability of the party(is) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents.

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