

00800
SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect. The General Conditions may also be supplemented elsewhere in the Contract Documents.

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 Edition) have the meanings assigned to them in the General Conditions.

PART 1 - MODIFICATIONS AND SUPPLEMENTS TO GENERAL CONDITIONS

SC-2.01 Delivery of Bonds and Evidence of Insurance

Delete paragraph 2.01 C. of the General Conditions in its entirety and insert the following in its place:

C. This subsection is not needed.

SC-2.05 Initial Acceptance of Schedules

Delete the paragraph 2.05 A in its entirety and insert the following in its place:

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, Owner, and others as appropriate, will be held to review for acceptability to Owner as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Owner.

SC-3.03 Reporting and Resolving Discrepancies

Delete the paragraph 3.03 A.1 in its entirety and insert the following in its place:

1. Contractor's Verification of Figures and Field Measurements: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer and Owner any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer and Owner, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

SC-3.03 Reporting and Resolving Discrepancies

Delete the paragraph 3.03 A.3 in its entirety and insert the following in its place:

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or unless Contractor reasonably should have known of such conflict, error, ambiguity or discrepancy.

SC-3.03 Reporting and Resolving Discrepancies

Delete the paragraph 3.03 B.1. in its entirety and insert the following in its place:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for the Owner or Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

SC-4.01 Commencement of Contract Time; Notice to Proceed

Delete the last sentence of paragraph 4.01 A. of the General Conditions and insert the following in its place:

In no event will the Contract Time commence to run later than the 120th day after the day of the Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier, unless agreed otherwise by Owner and Contractor in writing.

SC-4.05 Delays in Contractor's Progress

Delete paragraph 4.05 A. of the General Conditions in its entirety and insert the following in its place:

A. This subsection is not needed.

SC-5.03 Subsurface and Physical Conditions

Delete paragraphs 5.03 A. and 5.03 B. in of the General Conditions in their entirety and insert the following in their place:

5.03 Subsurface and Physical Conditions

A. Reports and Drawings: Division 1: General Requirements of the Specifications shall identify those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the site and drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the site that have been utilized by Engineer in preparation of the Contract Documents. Contractor may rely upon the accuracy of any Technical Data contained in such reports that is specifically referenced in Division 1: General Requirements as Technical Data that can be relied on by Contractor. Except as indicated above, Contractor shall have full responsibility with respect to subsurface and physical conditions at the site.

B. Contractor may rely on the technical data as set forth in subsection A above, but such reports and drawings are not Contract Documents. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. The completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. Non-technical data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. Any Contractor interpretation of or conclusion drawn from any Technical data or any such other data, interpretations, opinions, or information.

SC-5.06 Hazardous Environmental Conditions at Site

Delete paragraphs 5.06 A., 5.06 B. and 5.06 I. in of the General Conditions in their entirety and insert the following in their place:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. This subsection is not needed.
- I. This subsection is not needed.

SC-6.01 Performance, Payment and Other Bonds

Add the following language at the end of Paragraph 6.01 A.:

In accordance with section 255.05(1), Fla. Stat., as amended from time to time, before commencing the Work or before recommencing the Work after a default or abandonment, the Contractor shall execute and record in the public records of Palm Beach County a payment and performance bond with a surety insurer authorized to do business in the State of Florida, and the Contractor shall be required to provide to the Owner a certified copy of the recorded bond. The Owner may not make a payment to the Contractor until the Contractor has complied with section 255.05(1)(b), Fla. Stat.

SC-6.02 Insurance – General Provisions

Delete the paragraph 6.02 A in its entirety and insert the following in its place:

A. Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.

SC-6.02 Insurance – General Provisions

Delete the paragraph 6.02 B in its entirety and insert the following in its place:

B. All insurance is required by the Contract to be purchased and maintained by the Contractor and shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better. Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

SC-6.02 Insurance – General Provisions

Add the following language at the end of Paragraph 6.02 C.:

Contractor shall deliver the required certificates of insurance prior to the commencement of any Work at the site. All of the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by Contractor shall be “claims made” and contain the name of the Project. Subcontractors are to carry the same insurance as the prime contractor.

SC-6.03 Contractor’s Insurance

Delete the following language in Paragraph 6.03 G.:

G. *Additional insureds:* The Contractor’s commercial general liability, ~~automobile liability~~, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and

subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.

Add the following new paragraph immediately after Paragraph 6.03 J.:

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Worker's Compensation, and related coverages under Paragraphs 6.03 A.1. and 6.03 A.2. of the General Conditions:

State: Statutory

Applicable Federal (e.g. Longshoreman's and Harbor Workers' Compensation, Maritime, Jones Act, etc.): Statutory

Employer's liability:

Bodily injury, each accident \$1,000,000

Bodily injury by disease, each employee \$1,000,000

Bodily injury/disease aggregate \$1,000,000

2. Contractor's Commercial General Liability under paragraphs 6.03 B. and 6.03 C. of the General Conditions:

General Aggregate \$3,000,000

Products and Completed Operations Aggregate \$3,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence (Bodily Injury and Property Damage) \$1,000,000

3. Automobile Liability under paragraph 6.03 D. of the General Conditions:

Combined Single Limit of \$1,000,000

4. Excess or Umbrella Liability under paragraph 6.03 E. of the General Conditions:

Per Occurrence \$If applicable

General Aggregate \$If applicable

SC-6.04 Owner's Liability Insurance

Delete paragraphs 6.04 A. and 6.04 B. of the General Conditions in their entirety and insert the following in their place:

A. This Subsection is not needed.

B. This subsection is not needed.

SC-6.05 Property Insurance

Add the following language at the end of paragraph 6.05 C.:

The maximum deductible amount for any insurance required under paragraph 6.05 shall be \$5,000.00.

SC-6.06 Waiver of Rights

Delete paragraphs 6.06 B., 6.06 B.1., 6.06 B.2. and 6.06 C. of the General Conditions in their entirety and insert the following in their place:

- B. This subsection is not needed.
- B.1. This subsection is not needed.
- B.2. This subsection is not needed.
- C. This subsection is not needed.

SC-6.07 Receipt and Application of Property Insurance Proceeds

Delete the paragraph 6.07 B in its entirety and insert the following in its place:

B. Proceeds for such insured losses will be made payable by the insurer jointly to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

SC-7.01 Supervision and Superintendence

Add the following language at the end of paragraph 7.01 B.:

The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.

SC-7.04 "Or Equals"

Delete paragraph 7.04 A.1. and insert the following in its place:

A.1. If Owner and Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Owner and Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

SC-7.04 "Or Equals"

Delete paragraph 7.04 C. and insert the following in its place:

C. Owner's and Engineer's Evaluation and Determination: Owner and Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Owner and Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Owner and Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Owner's and Engineer's review is complete and Owner and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Owner or Engineer will advise Contractor in writing of any negative determination.

SC-7.05 Substitutes

Delete paragraph 7.05 A., A.1., A.2., and A.3. and insert the following in its place:

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Owner and Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

A.1. Contractor shall submit sufficient information as provided below to allow Owner and Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Owner and Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

A.2. The requirements for review by Owner and Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Owner and Engineer may decide is appropriate under the circumstances.

A.3. Contractor shall make written application to Owner and Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

SC-7.06 Concerning Subcontractors, Suppliers, and Others

Delete paragraph 7.06.A. and insert the following in its place:

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers shall be listed in the bid must be acceptable to Owner at sole discretion.

SC-7.06 Concerning Subcontractors, Suppliers, and Others

Delete paragraph 7.06.D. and insert the following in its place:

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a, reasonable objection within five days.

SC-7.06 Concerning Subcontractors, Suppliers, and Others

Delete paragraph 7.06.F. and insert the following in its place:

F. This subsection is not needed.

SC-7.07 Patent Fees and Royalties

Delete paragraph 7.07 B. and insert the following in its place:

B. This subsection is not needed.

SC-7.08 Permits

Add the following language at the end of paragraph 7.08 A.:

Contractor shall obtain and Owner shall reimburse Contractor through an allowance based on the actual direct cost of the permit fee paid by the contractor for the following permits, as applicable:

1. Palm Beach County Building Department Permit. The permit fee will be paid for by the Owner to the Palm Beach County Building Department. Contractor shall be responsible for submitting and picking up the permit from the Palm Beach County Building Department.
2. Any other applicable permits,
3. Maintenance of Traffic permits which will not be reimbursed through an allowance and are to be directly obtained and paid for by the contractor.

SC-7.18 Indemnification

Delete paragraph 7.18 A. and insert the following in its place:

A. Contractor shall indemnify and hold harmless Owner and Engineer and their respective officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract Documents. Compliance with any insurance requirements required elsewhere in the Contract Documents shall not relieve Contractor of its liability and obligation to hold harmless and indemnify the Owner as set forth in this section. It is the specific intent of the parties hereto that the foregoing indemnification complies with section 725.06, Florida Statutes. It is further the specific intent and agreement of the parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the required "Specific Consideration" therefore. Nothing contained in the Contract Documents shall be construed or interpreted as consent by the Owner to be sued, nor shall the Contract Documents be construed as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Fla. Stat., as amended from time to time.

SC-8.03 Concerning Subcontractors, Suppliers, and Others

Delete paragraph 8.03.A. and insert the following in its place:

A. This subsection is not needed.

SC-9 ARTICLE 9 OWNER'S RESPONSIBILITIES

Delete Article 9 OWNER'S RESPONSIBILITIES and insert the following in its place:

Article 9 - Limitations on Owner's Responsibilities.

SC-9.01 Limitations on Owner's Responsibilities

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

SC-10.03 Project Representative

Add the following new paragraph immediately after paragraph 10.03 A.:

B. On this Project, by agreement with the Owner, Engineer will furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work. The Engineer's Resident Project Representative's, duties shall be as provided in the Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative as included in the Project Manual (00840).

SC-10.04 Rejecting Defective Work

Add the following language at the end of paragraph 10.04 A.:

A. Engineer also has the authority to disapprove or reject Work which Engineer believes will not produce a completed Project that conforms to the Contract documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

SC-11.04 Change of Contract Price

Delete paragraphs 11.04.C.2.a., 11.04.C.2.b., 11.04.C.2.d., and 11.04.C.2.f., of the General Conditions in their entirety and insert the following in their place:

- a. This subsection is not needed.
- b. This subsection is not needed.
- d. This subsection is not needed.
- f. This subsection is not needed.

SC-13.03 Unit Price Work

Delete paragraph 13.03 E. in its entirety and insert the following in its place:

E. Contractor may not make a claim for additional expenses incurred as a result of a difference between final quantity of any item(s) of Unit Price Work and the estimated quantity of such item(s) in the Contract Documents, unless specifically allowed in the Bid Form. Any adjustments specifically allowed shall be made in accordance with directions in the Bid Form.

SC-14.05 Uncovering Work

Delete paragraph 14.05.A. and insert the following in its place:

A. Owner has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

SC-16.02 Uncovering Work

Delete paragraph 16.02.A.1. and 16.02.A.2. and insert the following in its place:

1. Contractor's failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
2. Failure of Contractor to perform or otherwise to comply with a term of the Contract Documents;

SC-16.03 Owner May Terminate for Convenience

Add the following new paragraph immediately after paragraph 16.03 B.:

2. If a court of competent jurisdiction finds that the Owner wrongfully terminated this Contract, then in such event, this Contract shall be deemed terminated for convenience as provided for in this paragraph, and the Contractor shall not be entitled to loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination but may be entitled to all items as authorized herein.

SC-18.07 Controlling Law

Delete paragraph 18.07 A. in its entirety and insert the following in its place:

A. This Contract is to be governed by the laws of the State of Florida. The venue for any and all legal action necessary to enforce the Contract Documents will be in Palm Beach County, Florida.

SC-18.08 Public Construction Bond

A. In accordance with the provisions of section 255.05, Florida Statutes, the Contractor shall provide to the Owner, on forms furnished by Owner in the IFB or substantially similar as approved by the Owner, a 100% Public Construction Bond ("Bond") in an amount not less than the total Contract Price by a Surety Company acceptable to the Owner as explained below. The Public Construction Bond shall incorporate by reference the terms of the Contract Documents in its entirety. Moreover, Contractor

agrees that the following language shall be expressly included within the language of its Public Construction Bond (with the District identified as the "Owner"):

"The Surety expressly agrees to be bound by all terms and conditions related to liquidated, delay and time or impact-related damages. Surety shall be bound by the warranty or warranties contained in the contract documents and shall be responsible for any and all warranty obligations or damages as a result of latent defects or deficiencies in the work performed under the contract. The Surety waives all rights against Owner and its agents and employees for damages or other causes of loss by the Surety's performance of its obligations under this Bond, including claims by Surety against Owner for costs it asserts were not warranted by the contract documents, excluding only such rights as the Surety shall have to proceeds of such insurance held by Owner as fiduciary."

B. To be acceptable to the District as the Owner, a Surety Company shall comply with the following provisions:

1. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida Department of Insurance, authorizing it to write surety bonds in the State of Florida.
2. The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
3. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
4. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to Proposal is issued.
5. The Surety Company shall have at least the ratings of A-/Class V in the latest issue of Best's Key Rating Guide.
6. The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:
 - (a) Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.
 - (b) In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

C. The cost of the Public Construction Bond shall be a direct pass through cost to the Owner from the Contractor without any mark-up.

D. Prior to commencing any work, the Contractor shall have the fully executed Public Construction Bond recorded in the Official Records in and for Palm Beach County, Florida, and shall provide a copy of the Bond with the recording information to the Owner.

PART 2 - ADDITIONAL SUPPLEMENTARY CONDITIONS

1. ATTACHMENTS:

The following forms included in the Project Manual shall be used by Contractor for submittals required by the Contract Documents (unless Owner accepts other form):

- a. Construction Performance Bond (RFB Attachment E).
- b. Construction Payment Bond (RFB Attachment F).
- c. Form of Application for Payment (RFB Attachment K).

END OF SECTION