

# SUPPLEMENTARY CONDITIONS

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# **SUPPLEMENTARY CONDITIONS**

## **CONDITIONS OF THE CONTRACT**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 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.

### **SC-1 DEFINITIONS**

A. The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition) have the meanings assigned to them in the General Conditions.

B. Add the following definitions to ARTICLE 1. Of the General Conditions:

Plans - The term plans as used in these Contract Documents shall have the same meaning as Drawings.

Provide - Furnish and install specified materials and equipment.

Product - Includes materials, equipment and systems.

### **SC-4.02 PHYSICAL CONDITIONS, INVESTIGATIONS AND REPORTS**

SC-4.02 Delete Paragraphs 4.02.A and 4.02.B in their entirety and insert the following:

A. The owner contracted with Ground Engineering Consultants to core drill the streets to determine asphalt and base course thickness. The findings are available from the owner.

### **SC-4.06 HAZARDOUS ENVIRONMENTAL CONDITIONS, INVESTIGATIONS AND REPORTS**

SC-4.06 Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

B. Not Used.

### **SC-5.01 PERFORMANCE, PAYMENT, AND OTHER BONDS**

SC-5.01 Delete the time frame of "20 days" in paragraph C, and replace with "5 days". Add the following to the end of the paragraph: "The substitute bond and surety company shall be approved by the Owner".

## SC-5.04 CONTRACTOR'S LIABILITY INSURANCE

SC-5.04 Add the following new paragraph immediately after Paragraph 5.04.B:

C. 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:

- |           |   |                |
|-----------|---|----------------|
| <b>a.</b> | State:  | Statutory      |
| <b>b.</b> | Applicable Federal<br>(e.g., Longshoreman's): | Statutory      |
| <b>c.</b> | Employer's Liability:                         | \$1,000,000.00 |

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:

- |                          |  |                |
|--------------------------|--|----------------|
| <b>a.</b>                | General Aggregate  | \$2,000,000.00 |
| <b>b.</b>                | Products - Completed<br>Operations Aggregate   | \$1,000,000.00 |
| <b>c.</b>                | Personal and Advertising<br>Injury   | \$1,000,000.00 |
| <b>d.</b>                | Each Occurrence<br>(Bodily Injury and<br>Property Damage)  | \$1,000,000.00 |
| <b>e.</b>                | Property Damage liability insurance will provide<br>Explosion, Collapse, and Under-ground coverages<br>where applicable. |                |
| <b>f.</b>                | Excess or Umbrella Liability   |                |
| <input type="checkbox"/> | General Aggregate  | \$2,000,000.00 |
| <input type="checkbox"/> | Each Occurrence  | \$2,000,000.00 |

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

- |           |                  |                |
|-----------|------------------|----------------|
| <b>a.</b> | Bodily Injury:   |                |
|           | Each person      | \$1,000,000.00 |
|           | Each Accident    | \$1,000,000.00 |
| <b>b.</b> | Property Damage: |                |
|           | Each Accident    | \$1,000,000.00 |

[or]

- c. Combined Single Limit of \$1,000,000.00
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:   |                |
| Each person         | \$1,000,000.00 |
| Each Accident       | \$1,000,000.00 |
| b. Property Damage: |                |
| Each Accident       | \$1,000,000.00 |
| Annual Aggregate    | \$1,000,000.00 |
5. Builder's Risk insurance with minimum limits of not less than the insurable value of the work to be performed under this contract at completion less the value of the materials and equipment insured under installation floater insurance. The policy shall be written in completed value form and shall protect the Contractor and the City/Town against risks of damage to buildings, structures, and materials and equipment not otherwise covered under Installation Floater insurance, from the perils of fire and lightning, the perils included in the standard coverage endorsement, and the perils of vandalism and malicious mischief. Equipment such as pumps, engine-generators, compressors, motors, switch-gear, transformers, panelboards, control equipment, and other similar equipment shall be insured under Installation Floater insurance when the aggregate value of the equipment exceeds \$10,000. The policy shall provide for losses to be payable to the Contractor and the City/Town as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the Contractor or the City/Town.
6. Installation Floater with minimum limits of not less than the insurable value of the work to be performed under this contract at completion, less the value of the materials and equipment insured under Builder's Risk insurance. The value shall include the aggregate value of any City-furnished equipment and materials to be erected or installed by the Contractor not otherwise insured under Builder's Risk insurance. The policy shall protect the Contractor and the City/Town from all insurable risks of physical loss or damage to materials and equipment not otherwise covered under Builder's Risk insurance, while in warehouses or storage areas, during installation, during testing, and after the work under this contract is completed. The policy shall be of the "all risks" type, with coverages designed for the circumstances which may occur in the particular work to be performed under this contract. The policy shall provide for losses to be payable to the Contractor and the City/Town as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the Contractor or the City/Town.
7. The policies required above, except for the Workers' Compensation insurance and Employers' Liability insurance, shall be endorsed to include the City/Town, and its officers and employees, as additional insureds. Every

policy required above shall be primary insurance, and any insurance carried by the City/Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

8. All the above policies are subject to review and approval by Town and its insurer.
9. Failure to maintain the above policies constitutes material breach of contract which allows Town to immediately terminate the contract &/or obtain such insurance and offset cost of premiums against any money due to contractor.
10. Town is relying on and does not waive Colorado Governmental Immunity Act (CRS 24-10-101, et seq).
11. Contractor and all subcontractors shall not commence work until it has obtained all insurance required and it has been submitted to and approved by the Town.

#### **SC-6.06 CONCERNING SUBCONTRACTORS, SUPPLIERS AND OTHERS**

SC-6.06 Add the following 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-6.08 PERMITS**

SC-6.08 Add the following new paragraphs immediately after Paragraph 6.08.A:

- B. Contractor shall obtain all permits required by regulatory agencies to discharge groundwater to surface water courses. Owner shall pay all fees associated with said permits and will render assistance to contractor in obtaining permits. Contractor however, has the full responsibility in acquisition of said permits.
- C. Contractor shall obtain and the Contractor shall pay for all other construction permits and licenses including, but not limited to: Traffic Control Permits.

#### **SC-7 OTHER WORK**

SC-7.04 Add the following new section immediately after Section 7.03:

SC-7.04 Should Contractor cause damage to the work or property of any separate contractor at the site, or should any claim arising out of Contractor's performance of the Work at the site be made by any separate contractor against Contractor, Owner,

Engineer, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law. Contractor shall, to the fullest extent permitted by Laws, and Regulations, indemnify and hold Owner and Engineer harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against Owner or Engineer to the extent based on a claim arising out of Contractor's performance of the Work. Should a separate contractor cause damage to the Work or property of Contractor or should the performance of Work by any separate contractor at the site give rise to any other claim, Contractor shall not institute any action, legal or equitable, against Owner or Engineer or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbitrator which seeks to impose liability on or to recover damages from Owner or Engineer on account of any such damage or claim. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of a separate contractor and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Time attributable thereto, Contractor may make a claim for an extension of time in accordance with Article 12. An extension of the Contract Time shall be Contractor's exclusive remedy with respect to Owner and Engineer for any delay, disruption, interference or hindrance caused by any separate contractor. This paragraph does not prevent recovery from Owner or Engineer for activities that are their respective responsibilities.

### **SC-9.03 PROJECT REPRESENTATION**

SC-9.03 Add the following new paragraphs immediately after Paragraph 9.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's employee or agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall be through or with the full knowledge and approval of Contractor. The RPR shall:
1. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
  2. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
  3. *Liaison:*
    - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's authorized representative, assist in providing information regarding the intent of the Contract Documents.
    - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

- c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
4. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
5. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
6. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
7. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
8. *Inspections, Tests, and System Startups:*
  - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
  - b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
9. *Records:*
  - a. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
  - b. Maintain records for use in preparing Project documentation.

10. *Reports:*
  - a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
  - b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
  - c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Hazardous Environmental Condition.
11. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
12. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
13. *Completion:*
  - a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
  - b. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
  - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

C. The RPR shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

### **SC-12.03 CHANGE OF CONTRACT TIME DELAYS**

SC-12.03.A Add the following language to the end of paragraph 12.03.A:

An extension of the Contract Time shall be Contractor's exclusive remedy with respect to any delay, disruption, interference, or hindrance caused by fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

### **SC-14.02 PAYMENTS TO CONTRACTOR AND COMPLETION**

SC-14.02 Delete Paragraph 14.02.B.1 in its entirety and insert the following in its place:

Engineer will, after receipt of each monthly Application for Payment from Contractor, either indicate in writing a recommendation of payment and present the Application to Owner, or return Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application. The approved Application for Payment will (subject to the provisions of the last sentence of paragraph 14.02.B.5) become due and when due will be paid by Owner to Contractor.

### **SC-14.07 FINAL APPLICATION FOR PAYMENT**

SC-14.07 Amend Paragraph 14.07.A.3 to read as follows:

*Replace* "In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that:" *with* "In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor shall furnish receipts or releases in full and an affidavit of Contractor that:"

**SC-15.02.A OWNER MAY TERMINATE**

SC-15.02.A Delete the word “persistent” from paragraph 15.02.A.1.

**SC-16 DISPUTE RESOLUTION**

A. Delete Article 16 of the General Conditions in its entirety.

**SC-17.05 CONTROLLING LAW**

SC-17.05 Delete paragraph A and replace with the following:

“This Agreement shall be deemed entered into in Eagle County, Colorado, and shall be governed by the laws of the State of Colorado. The parties agree to the jurisdiction and venue of the courts of Eagle County in connection with any dispute arising out of or in any matter connected with this Agreement.”

END OF SECTION