

E. INSURANCE AND INDEMNITY

E-1. General

The Contractor shall, during the performance of this work, take all necessary precautions and place proper guards for the prevention of accidents, and shall defend, indemnify and save harmless the Village of Ossining, its assigns, elected officials, employees and volunteers, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.** from all claims, suits and actions and all damages and costs, including reasonable attorneys' fees to which they may be put by reason of death, personal injury or property damage to another resulting from unskillfulness, willfulness, negligence or carelessness in the performance of the work, or in guarding and protecting the performance or construction, or by or on account of any direct or indirect act or omission of the Contractor or its employees or agents, and whether or not any active, passive, concurrent or negligent act or omission of the Village of Ossining, its assigns, elected officials, employees and volunteers, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.** may have directly or indirectly contributed thereto. The duty to defend, indemnify and save harmless shall extend beyond the expiration/termination/completion of this Contract Agreement.

The Contractor also shall take out and maintain during the life of the contract such contingent property damage, public liability insurance policies, automobile liability and umbrella coverages in amounts hereinafter specified as will protect the Village of Ossining, its assigns, elected officials, employees and volunteers, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.** from any and all of the above matters, including a contractual coverage clause where applicable.

The Contractor before execution of this contract by the Village Manager or designee, shall file with the Village Engineer and Corporation Counsel for their approval, one copy of each and every insurance and indemnity policy required by the terms of this contract which policies shall carry an endorsement to the effect that the insurance company shall provide at least thirty (30) days' written notice to the Village Engineer and Corporation Counsel of any cancellation, modification and/or expiration of the insurance policies. Said insurance and indemnity policies, certificates or binders shall be subject to the approval of the Village of Ossining with regard to company, adequacy and form of protection as detailed below. The certified check or bid bond submitted with the Contractor's bid may be held for and until such approval has been given. Upon the failure of the Contractor to furnish, deliver, and maintain such acceptable binders, certificates of insurance, policies as above provided, this contract may, at the option of the Village of Ossining, be held willfully violated by the Contractor and may be declared suspended, discontinued or terminated by the Village. The Contractor acknowledges that the failure to obtain the insurance detailed below constitutes a material breach of the contract and subjects

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the Contractor to liability for damages, indemnification and all other legal remedies. The failure of the Village of Ossining to object to the contents of the Certificates of Insurance or policies shall not be deemed a waiver of any and all rights held by the Village. Failure of the Contractor to take out and/or maintain any required insurance shall not relieve the Contractor from any responsibility or liability under this contract, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

The cost of furnishing the below detailed insurance coverage shall be borne by the Contractor. The cost for the insurance will be deemed to have been included in the price bid for the contract.

All insurance companies listed on the Certificates of Insurance shall be A.M. Best rated A VIII or better and be admitted in New York State.

All required insurance must be in effect and continued during the life of the contract **in not less than the following amounts:**

- **Workers' Compensation and Employer's Liability-** Contractor to provide New York State Workers' Compensation Board form DB-120.1 or equivalent for proof of compliance with the New York State Disability Law. Form to note the location of operations to be the Multi-Modal Transportation Hub site. Workers' Compensation shall have unlimited coverage. Such insurance also shall include Employer's Liability in an amount not less than \$2,000,000 per accident, \$2,000,000 per employee, and \$2,000,000 policy limit. Policies to cover operations in New York State. Where applicable, U.S. Longshore and Harbor Workers' Compensation Act Endorsement and Maritime Coverage Endorsement shall be attached to the policy. The Village of Ossining, its employees, elected officials, volunteers and agents, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.** shall be included in a waiver of subrogation clause without the need for a contract or agreement.
- **Commercial General Liability-** Such policy shall include the following coverages: i) bodily injury and property damage; ii) products/completed operations; iii) personal and advertising injury; and iv) blanket contractual liability. The products and completed operations coverage shall be maintained for three (3) years after final payment. The contractor shall furnish the Village and additional insureds with evidence of continuation of coverage at final payment and for three years thereafter. Minimum policy limits for Commercial General Liability coverage shall be: i) Products/completed operations \$2,000,000; ii) Personal and advertising injury-**\$2,000,000**; iii) Bodily injury and property damage - **\$2,000,000** per occurrence; iv) Sexual molestation and abuse - **\$2,000,000** per

occurrence; v) General Aggregate - **\$4,000,000**. The policy shall include the following provisions: i) **the Village of Ossining, its elected and appointed officials and employees, THA Architecture & Engineering, P.C. and Calgi Construction Company, Inc. shall be named as additional insureds using ISO Additional Insured Endorsement CG 20 10 11/85 or an endorsement providing equivalent or broader coverage which coverage shall apply on a primary and non-contributory basis, including any self-insured retentions without the need for a contract or agreement.** The additional insured endorsement shall be provided with the Certificate of Insurance; ii) to the fullest extent permitted by New York law, the contractor waives all rights of subrogation or similar rights against the Village of Ossining, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.**; iii) coverage to be written on an occurrence basis; iv) coverage shall include labor law and third-party over claims; v) the clause “other insurance provisions” in a policy in which the Village is named as an insured shall not apply to the Village; vi) the insurance company issuing the policy shall have no recourse against the Village, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.** for payment of any premium under the policy; and vii) any and all deductibles shall be the Contractor’s sole responsibility.

- **Comprehensive Business Automobile Liability- \$1,000,000** per occurrence and **\$2,000,000** general aggregate **or \$2,000,000** combined single limit for bodily injury and property damage including coverage for any owned, non-owned and hired private passenger and commercial vehicles. Such policy to include: a) **The Village of Ossining, its elected officials, employees, agents and volunteers, THA Architecture & Engineering, P.C., and Calgi Construction Company, Inc. shall be named as additional insureds on the policy using ISO Additional Insured endorsement CG 20 10 11/85 or an endorsement providing equivalent or broader coverage and shall apply on a primary and noncontributory basis, including any self-insured retentions without the need for a contract or agreement.** The Certificate of Insurance shall indicate that the aforementioned requirement applies to the Comprehensive Business Automobile coverage and the additional insured endorsement shall be attached to the insurance certificate; b) To the extent permitted by New York law, the Contractor waives all rights of subrogation or similar rights against the Village of Ossining, **THA Architecture & Engineering, P.C.**, and **Calgi Construction Company, Inc.**; c) The clause “other insurance provisions” in the policy in which the Village is named as an insured shall not apply to the Village; d) The insurance company issuing the policy shall have no recourse against the Village for payment of any premium under the policy; and e) Any and all deductibles in the policy shall be assumed by and be the sole responsibility of the Contractor.

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- **Umbrella/Excess Liability-** **\$5,000,000** per occurrence and **\$5,000,000** general aggregate per location. Such coverage to follow the Commercial General Liability and Comprehensive Business Automobile Liability policies. Such coverage shall include: a) coverage to be written on an occurrence policy form; b) **The Village of Ossining, its elected officials, employees, agents and volunteers, THA Architecture & Engineering, P.C., and Calgi Construction Company, Inc. shall be named as additional insureds on the policy using ISO Additional Insured endorsement CG 20 10 11/85 or an endorsement providing equivalent or broader coverage and shall apply on a primary and noncontributory basis, including any self-insured retentions without the need for a contract or agreement;** c) to the extent permitted by New York law, the Contractor waives all rights of subrogation or similar rights against the Village of Ossining, **THA Architecture & Engineering, P.C. and Calgi Construction Company, Inc.**; d) The clause “other insurance provisions” in a policy in which the Village is named as an insured shall not apply to the Village; e) The insurance company issuing the policy shall have no recourse against the Village for payment of any premium under the policy; and f) Umbrella/Excess coverage shall follow the forms of the commercial general liability and automobile liability coverages.
- **Contractor’s Pollution Liability Insurance-** The General Contractor shall purchase and maintain a policy for third party injury and property damage including cleanup costs as a result of pollution conditions arising from the General Contractor’s operations and completed operations. This insurance with minimum policy limits of **\$2,000,000** per occurrence and **\$4,000,000** general aggregate shall be maintained for no less than three years after final completion.
- **Owner’s and Contractor’s Protective Liability-** **\$1,000,000** per occurrence and **\$2,000,000** general aggregate limits per location for bodily injury and property damage. Village of Ossining is the sole named insured.

Blasting or explosives coverage may be required if and when deemed necessary by the Village Engineer at the commencement of or during performance of the contract. Such work will be subject to all necessary approvals and permit requirements.

The above-listed minimum insurance coverage requirements may be increased upon review and determination made by the Village Engineer in consultation with the Corporation Counsel and Engineer.