

SECTION H

INSURANCE

1. Insurance required to be provided by Contractor and Subcontractor shall comply with Section H naming the Certificate Holder Village of Pleasantville. ("Owner") and Others named additionally insured ("Others"). Additionally insured shall include the County of Westchester.
2. ALL POLICIES shall include: (a) endorsement of the Work description, contract name, number and location. (b) an endorsement that the Insurance Company will give at least thirty (30) days written notice to the Client and Engineer prior to any modification or cancellation of any such policy, (c) an endorsement that the Contractor will be responsible for the payment of all premiums and/or charges, and (d) an endorsement as follows: "This policy is issued in compliance with the requirements of the Contract, Contract Documents for the Project and issuing Company/Agent is fully cognizant of the requirements as stated therein."
3. Before commencing any Work under the Contract, the Contractor shall submit copies of the Certificate/Certificates of Insurance or binders to the Client, Engineer and any others as may be specified in the Special Conditions under "INSURANCE", evidencing that all insurance as required herein is in force. The policies shall be identified by title, policy number, effective date, expiration date, coverages and limits of liability. Required or verbatim quotes of endorsements as required above or by the Special Conditions shall be attached to or be a part of the Certificate/Certificates of Insurance.
4. The Contractor must either include coverage for its Subcontractors in its policy or submit similar Certificates of Insurance from each of its Subcontractors before their Work commences. Each Subcontractor must be covered by insurance of the same character and in the same amounts as the Contractor unless the Contractor and the Engineer agree that a reduced coverage is adequate because of the nature of the particular Subcontract Work.
5. During the course of construction under the Contract, whenever there is a lapse in the insurance requirements as stated herein, through cancellation, expiration, failure to renew, or any other cause, the Client shall order the cessation of all construction activities until such time as the insurance requirements are complied with. The Contractor shall have no claim or claims whatever against the Client, the Engineer or other parties due to any delays caused thereby, nor shall it extend the completion time of the Contract.
6. The Contractor, prior to signing of the Contract, shall provide to the Owner and Others, identified in Section H, and maintain throughout the life of the Contract, at its own cost and expense, proof of the following insurance by insurance companies licensed in the State of New York carrying a Best's financial rating of A or better. The Contractor shall also require all sub-Contractors, agents and vendors to provide and maintain the insurance set forth within Section H.
 - (a.) Workmen's Compensation. The Contractor for the agreed consideration, promises and agrees to pay the contributions measured by the wages of its employees required by State Unemployment Insurance Laws and all amendments thereto, and to accept the account of any contribution measured by the wages as aforesaid of employees of the Contractor and its Subcontractors assessed against the Owner under the authority of said law. This insurance should be provided on Form C 105.2. Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at <http://www.wcb.ny.gov/>. If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12 Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance). Location of operation shall be "All locations in Westchester County, New York."

(b) General Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury and for property damage or a combined single limit of \$2,000,000 (c.s.1), naming the Owner and Others as additional insured on a primary and non-contributory basis. In addition, this insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor
- (iv) Products and Completed Operations.

c) There shall also be excess/ umbrella coverage in the amount of \$2,000,000 which shall name the Owner and Others, and their respective directors, officers and employees as unrestricted additional insureds on the Excess/ Umbrella policy written on a "follow the form" basis. The General Liability and Excess/Umbrella policy shall be the primary coverage over any coverage the Owner and Others obtain for themselves.

(Note: Additional insured status shall be provided by standard or other endorsement that extends coverage to the Owner and Others for both on-going and completed operations.)

d) Automobile Liability Insurance with a minimum limit of liability of \$1,000,000 per occurrence and \$1,000,000 in the aggregate for bodily injury and property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the Contract specifications. The Owner and Others shall be named as unrestricted additional insured on all auto policies. This insurance shall be the primary coverage and non-contributory. This insurance shall include for bodily injury and property damage the following coverages:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

7. In case of cancellation or material change in any and all of the policies, thirty (30) days notice shall be given to the Owner (address listed on the cover of the bid document) by registered mail, return receipt requested. All notices shall name the Contractor and/ or Subcontractor and identify the Agreement.

8. All policies of the Contractor and subcontractor(s) shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the Owner and Others (including their respective employees and other agents and agencies), it being the intention of the parties that the insurance policies so affected shall protect all parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the Owner or Others are named as insured, shall not apply to the Owner or Others.

(c) The insurance companies issuing the policy or policies shall have no recourse against the Owner or Others (including their respective agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.

9. All property losses shall be made payable to and adjusted with the Owner or Others.

10. All policies of insurance shall be acceptable to and approved by the Owner's Corporation Counsel prior to the inception of any work.

11. Other coverages may be required by the Owner or Others based on specific needs.

12. If, at any time, any of the said policies shall be or become unsatisfactory to the Owner or Others, as to form or substance, or if a company issuing such a policy shall be or become unsatisfactory to the Owner or Others, the Contractor shall promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as hereinafter provided. Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the Owner or Others, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor to take out and/or to maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification. All property losses shall be made payable to and adjusted with the Owner or Others.

13. In the event that claims, for which the Owner and Others may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the Owner or Others.

14. The Contractor shall notify in writing the commercial general liability insurance carrier, and, where applicable, the worker's compensation and/or other insurance carrier, of any such loss, damage, injury, or accident, and any claim or suit arising therefrom, immediately, but not later than 20 days after such event. The Contractor's notice to the commercial general liability insurance carrier must expressly specify that "this notice is being given on behalf of the Owner and Others as Additional Insured as well as [the Contractor] as Named Insured." The Contractor's notice to the insurance carrier shall contain the following information: the name of the Contractor, the number of the Contract, the date of the occurrence, the location (including street address) of the occurrence, and the identity of the persons or things injured, damaged or lost.

15. At the time notice is provided to the insurance carrier(s), the Contractor shall provide copies of such notice to the Contract Administrator and the President of the Owner at the address listed on the front of the bid document.

16. If the Contractor fails to provide any of the foregoing notices to any appropriate insurance carrier(s) in a timely and complete manner, the Contractor shall indemnify the Owner and Others for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the Owner and Others.

17. To the fullest extent permitted by law, the Contractor agrees to protect, defend, indemnify and hold the Owner and Others, and their respective directors, officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance by the Contractor and any and all Subcontractors hereof. Without limiting the generality of the foregoing, any and all claims, etc., relating to personal injury, death, damage to property, defects in materials and workmanship, actual or alleged infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false, or fraudulent. In any case in which such indemnification would violate Section 5-

322.1 of the New York General Obligations Law, or any other applicable legal prohibition, the foregoing provisions concerning indemnification shall not be construed to indemnify the Owner and Others for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Owner or Others and their employees

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Davis Bacon Wage Rates and State Prevailing Wages to follow this section. Note that it is the Contractor's responsibility to pay the higher wage for the employee's job classification.