**INSURANCE REQUIREMENTS FOR CONTRACTOR AND THEIR SUBCONTRACTORS**

Owner intends to implement an Owner Controlled Insurance Program for the Contractor Pollution Liability($10M) and , Commercial General Liability and Excess Liability ($125M) for the Construction Managers and all enrolled subcontractors performing work on the project site effective no later than November 12, 2019. Until the OCIP is put in place, Contractor, Subcontractors, and Sub-subcontractors shall be responsible to comply with all project insurance requirements as outlined herein for work performed both on site and off site. These requirements also include the OCIP Procedures Manual (Exhibit R), and OCIP Health & Safety Manual (Exhibit Q) for which the requirements are effective at OCIP implementation. Specific to the Contractor, all of these requirements are applicable to the full project duration with the exception of , Contractor Pollution Liability, Commercial General Liability, and Excess Liability for on-site work effective at OCIP implementation.

During the construction of the Project (or longer if required below) and in any event prior to, during and at any time while entering onto any portion of the Property or the Project, the following parties shall maintain the following insurance coverages:

1. Coverage required specific to Contractor and their respective subcontractors of all tiers includes:
	1. Commercial General Liability insurance with minimum limits of liability of $1,000,000 each occurrence for Bodily Injury and Property Damage, $1,000,000 each occurrence for Personal & Advertising Injury liability, including Contractual Liability (with no amendments to the “insured contract” definition other than an endorsement to provide coverage for work within 50’ of a railroad, if applicable), and $2,000,000 Aggregate limit for Products and Completed Operations and a $2,000,000 General Aggregate applying separately to the Project. Coverage shall include: Premises and Operations, Products and Completed Operations , Contractual Liability, Personal and Advertising Injury (with contractual exclusion deleted), Broad Form Property Damage, and Explosion, Collapse and Underground hazards;
	2. Workers Compensation insurance coverage with limits of not less than that required by law including Waiver of Right To Recover From Others Endorsement WC 00 03 13. Coverage will also be required for USL&H, Maritime Liability, and FELA if applicable to the project location and scope of work;
	3. Employers’ Liability insurance coverage in the amount of $1,000,000 each accident for Bodily Injury, $1,000,000 policy limit for Bodily Injury by Disease and $1,000,000 each employee for Bodily Injury by Disease;
	4. Automobile Liability insurance including coverage for owned, hired/leased and non-owned automobiles with limits of liability not less than $1,000,000 Combined Single Limit each accident for Bodily Injury and Property Damage;
	5. Environmental Liability insurance with limits of at least $5,000,000 per Occurrence and $5,000,000 Aggregate must be maintained by the Contractor. This coverage shall also be maintained by subcontractors providing environmental services with limits of at least $2,000,000 per Occurrence and $2,000,000 Aggregate. Such coverage shall be maintained for a period of at least five (5) years from Final Completion. Coverage shall not include any limitations for mold, lead, silica, or asbestos. Non-Owned Disposal Site (NODS) Liability coverage shall be required for any scope that requires disposal of materials off site at the limits noted above;
	6. Professional Liability (Errors & Omissions Liability) insurance coverage with limits of $5,000,000 Per Claim/Aggregate shall be maintained by the Contractor. This coverage shall also be maintained by subcontractors providing any professional or design related services with limits of at least $2,000,000 per Claim and $2,000,000 Aggregate. Such coverage shall be maintained for a period of at least five (5) years from Final Completion. Inclusion of the Professional Liability Coverage combined with the Environmental Liability Coverage within a single policy is an acceptable form of coverage;
	7. Specific to the Completed Operations insurance required above, coverage shall be maintained for five (5) years after Final Completion;
	8. Umbrella or Excess Liability insurance in the amount of at least $25,000,000 per occurrence/$25,000,000 aggregate shall be maintained by the Contractor; and $5,000,000 per occurrence/$5,000,000 aggregate shall be maintained by all first tier subcontractors, unless such subcontractor is in a trade that customarily in the construction industry does not maintain levels of insurance in which case such level of insurance shall be commercially reasonable under the circumstances.
	9. Owner will provide “All-Risk” Builders Risk Insurance Coverage on a Replacement Cost Basis in the amount of the total contract works, which shall include terrorism, insurance against the perils of fire, and physical loss or damage including theft, vandalism, glass breakage, malicious mischief, collapse, earthquake, flood, and windstorm. Coverage for Catastrophic Perils of Earthquake, Flood and Windstorm will be subject to market availability. This insurance will include the Owner, Contractors and Subcontractors of all tiers as Additional Named Insureds. The Builders Risk Policy will include a waiver of subrogation in favor of all insured parties. Coverage shall extend to materials, supplies and equipment destined to become a permanent part of the completed works while on or about the project site or on other locations approved by Owner subject to a Sublimit of $1,000,000 Per Occurrence. Temporary structures, tools, equipment, or other material not to become permanent part of the completed structure shall be excluded from coverage. Owner shall have the full power to adjust all losses and claims under the Builders Risk Insurance Policy.

Contractors and subcontractors of all tiers will be responsible to absorb a portion of the Builders Risk Deductible for any insured losses up to a maximum of $10,000 Per Occurrence in the event of their negligence.

1. The term “Contractor” shall apply to the Contractor, Subcontractors and Sub-subcontractors of all tiers under these additional requirements:
	1. All insurance shall be procured from insurers permitted to do business in the State in which the project is taking place and having an A.M. Best Rating of at least “A-, Class VIII”.
	2. There shall be no Self Insured Retention (SIR) on any policy greater than $25,000, which is the responsibility of the Contractor. If Contractor’s policy(ies) has a Self-Insured Retention exceeding this amount, approval must be received from Owner prior to starting work. In the event any policy includes an SIR, the Contractor is responsible for payment within the SIR of their policy(ies) and the Additional Insured requirements specified herein shall be offered within the SIR amount(s).
	3. All insurance required herein, with the exception of the Professional Liability Insurance, shall be written on an “occurrence” basis. Claims-Made coverage must include:
		1. The retroactive date must be on or prior to the start of work under this contract; and
		2. The Contractor must purchase “tail coverage/an extended reporting period” or maintain coverage for a period of three years, subsequent to the completion of their work / final payment.
	4. Contractor’s insurance carrier(s) shall agree to provide at least thirty (30) days prior written notice to Owner in the event coverage is canceled or non-renewed. In the event of cancellation or non-renewal of coverage(s), it is the Contractor’s responsibility to replace coverage to comply with the Contract requirements so there is no lapse of coverage for any time period.

In the event the insurance carriers will not issue or endorse their policy(s) to comply with the above it is the responsibility of the Contractor to report any notice of cancellation or non-renewal at least thirty (30) days prior to the effective date of this notice.

* 1. Contractor shall provide Owner with Certificates of Insurance, evidencing the insurance coverages listed below, ten days prior to the start of work of this Project and thereafter upon renewal or replacement of each coverage. The Contractor shall not begin any work until Owner has reviewed and approved the Certificate of Insurance. The required insurance shall not contain any exclusions or endorsements, which are not acceptable to Owner.

Failure of Owner to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor’s obligation to maintain such insurance.

With respect to insurance maintained after final payment in compliance with these requirements, an additional certificate(s) evidencing such coverage shall be provided to Owner with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the time period for which such insurance must be maintained.

* 1. Owner (including their Parent, Subsidiaries, and Affiliates), Seminole Hard Rock Entertainment, Inc., Seminole Hard Rock International, LLC, Spectacle Gary LLC, Windy City Acquisitions, LLC, The Majestic Star Casino, Hard Rock Gary LLC, SOSH Architects, Polisano Construction Services, LLC and such other parties as designated by Owner, and Architect shall be included as ADDITIONAL INSUREDS on all liability policies (except Workers’ Compensation and Professional Liability Policy, where applicable), for ongoing operations and completed operations on a primary noncontributory basis. Coverage to include ongoing and completed operations using ISO Endorsements CG 2010 and CG 2037, or their equivalents. Each of the Additional Insured’s respective members, employees, agents and representatives shall also be afforded coverage as an Additional Insured. Coverage should be provided for a period of three years subsequent to the completion of work/final payment.

Owner reserves the right to require Contractor to name other parties as additional insureds as required by Owner.

There shall be no “Insured versus Insured Exclusion” on any policies; all policies will provide for “cross liability coverage”.

* 1. Waiver of Rights of Subrogation: Contractor shall waive all rights of recovery against Owner, and all the additional insureds for loss or damage covered by any of the insurance maintained by the Contractor.
	2. The amount of insurance provided in the aforementioned insurance coverages, shall not be construed to be a limitation of the liability on the part of the Contractor.
	3. The carrying of insurance described shall in no way be interpreted as relieving the Contractor of any responsibility or liability under the contract.
	4. Any type of insurance or any increase in limits of liability not described above which the Contractor requires for its own protection or on account of statute shall be its own responsibility and at its own expense.
	5. Contractor shall promptly notify Owner and the appropriate insurance company(ies) in writing of any accident(s) as well as any claim, suit or process received by the Contractor arising in the course of operations under the contract. The Contractor shall forward such documents received to his insurance company(ies), as soon as practicable, or as required by its insurance policy(ies).
	6. Owner requires full compliance with these requirements. If due to market conditions or coverage availability a deviation is needed, such request shall be forwarded to the Owner in writing prior to contract award for consideration.

3. The Owner shall provide the following insurance:

3.1 Insurance for Existing Structures - If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until expiration of the period for correction of the Work “all risks property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damages from the causes of loss, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

3.2 Loss of Use, Business Interruption and Delay in Completion Insurance to reimburse the Owner for loss of use of the Owner’s property or the inability to conduct normal operations due to a covered clause of loss.

3.3 Expediting Cost Insurance for the reasonable and necessary cost to satisfy the minimum damage to insured property and to expedite the permanent repair or replacement of the damaged property.

3.4 Extra Expense Insurance to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total cost that would normally have been incurred during the same period had no loss or damage occurred.

3.5 Civil Authority Insurance for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided that such order is a direct result of physical damage covered under the Acquired Property Insurance.

3.6 Ingress/Egress Insurance for loss due to necessary interruption of the insured business due to physical prevention of ingress to or egress from the project as a direct result of physical damage.

3.7 Soft Cost Insurance to reimburse the Owner for costs due to the delay of completion of the Work arising out of physical loss or damage covered by the required Property Insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of the architects, engineers, consultants, attorneys and accountants needed for the completion of the construction, repairs or reconstruction and carrying costs, such as property taxes, building permits, additional interests and loans, realty taxes and insurance premiums over and above normal expenses.