SALT STORAGE SHED

Project Construction Manual

PROJECT OWNER:

THE TOWN OF LEWIS, NEW YORK

PROJECT NUMBER:

P-0025-2017

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NOTICE TO BIDDERS

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, that the Town of Lewis, will accept sealed bids at the Lewis Town Hall until 2:00 P.M. on June 7th, 2019 for a Salt Storage Shed.

Disadvantaged Business Enterprises (DBE's), Minority and Women Business Enterprises (M/WBE's), Service Disabled Veteran-Owned Businesses (SDVOB's) and Section 3 businesses are encouraged to respond.

The bids shall be opened publicly and read aloud on June 7th, 2019 at 2:00 P.M. at the Lewis Town Hall, located at 8574 US Rte 9, Lewis NY 12950. Please contact the Town Clerk at (518) 873-6777 for additional information concerning the bidding. Specifications and standard proposals for the proposed work may be obtained at the above address, on the County's website at: https://www.co.essex.ny.us/bidders/publicbids.aspx.

TIME OF RESPONSE:

• N T B Posted:	Friday, May 10th, 2019.
• Bids Due:	Friday, June 7 th by 2:00 pm.
Town Board Notification of Award:	June 11 th 2019 (Normal Board Meeting)
Contract Execution estimated:	Approx. June 20 th , 2019.
Project Completion:	September 1 st , 2019.

All bids submitted in response to this notice shall be marked "SEALED BID – LEWIS SALT STORAGE SHED" clearly on the outside of the envelope with the bidder's name and address. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by <u>Bid Security</u> in the form of a certified check, bank check, or bid bond in the amount of **five percent (5%)** of the total amount of the bid. The successful bidder will be required to furnish a Performance Bond and a Payment Bond in the statutory form of public bonds required by Section 137 of the State Finance Law, each for one hundred percent (100%) of the amount of the Contract. The Municipality reserves the right to reject any or all bids, and advertise for new bids, if in its opinion the best interest of the Municipality will hereby be promoted.

The Town of Lewis affirmatively states that in regard to any contract entered into pursuant to these instructions, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or Vietnam Era veteran status, disadvantaged and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

Dated: May 10th, 2019

Rob Wick, PMP Project Manager, Office of Community Resources 7533 Court Street – PO Box 217 Elizabethtown, New York 12932 (518) 873-3426

INSTRUCTIONS TO BIDDERS

EXAMINATION OF DOCUMENTS

Carefully examine and be familiar with the Contract Documents (as defined in Article 1.1 of the General Conditions).

Examine the information concerning subsurface or other latent physical conditions. It is presented in good faith but is not intended as a substitute for personal investigation, interpretations or judgment of the Contractor.

VISIT TO THE SITE

Bidders will have an opportunity to visit the site of the work on at the site located **behind the Town Hall, adjacent to the Highway Garage at 8574 US Rte 9, Lewis NY; contact the Town Hall during business hours to coordinate a site visit**. Attendance at the site visit is not mandatory in order to bid for the work. Contact one of the Designated Contacts listed on the Notice to Bidders at least **24 hours** in advance of the site visit time to notify of your intent to attend.

Become familiar with restrictions and regulations relating to the work. Existing restrictions and regulations will not be considered as grounds for any additional cost over the Contract sum.

Contractor will be expected to assume the risk of encountering any subsurface or other latent physical condition which can be reasonably anticipated on the basis of documentary information provided by the Municipality and from inspection and examination of the site.

RESOLUTION OF DISCREPANCIES AND AMBIGUITIES

Direct all questions regarding the intent or meaning of the drawings or specifications to the Contacts as noted in the Notice to Bidders. Any reply to such an inquiry, including the initial questions, will be communicated by Addendum to all bidders who have obtained drawings and specifications. Inquiries that do not follow the above process will not be answered.

Interpretations of Contract Documents by Municipality personnel or the Design Professional are not binding.

PREPARATION OF BIDS

Bidders shall submit bids on the bid form attached hereto, including the Non-Collusive/Procurement Lobbying Bidding Certification. Make no changes of any kind in the bid form phraseology, or anywhere on the bid form. Fill in all blank spaces legibly and in ink. All amounts shall be given in full in both writing and also in figures. In case of a discrepancy between the amount written in words and that given in figures, the amount written in words is binding.

When the Contract Documents require alternate price quotations, indicate the amounts to be added to or deducted from the base bid. If the work is to be performed at no change in cost, indicate the word "NONE". Any bid which fails to indicate a sum or the word "NONE", shall be considered informal and may be rejected.

Sign the bid form in the space provided. An officer or a principal of a corporation or a partnership signing for the bidder shall print or type the legal name of the person, partnership or corporation on the line provided and place his or her signature after "SIGN BID HERE". The same procedure

shall apply to the bid of a joint venture by two or more firms, except that the signature and title of an officer or a principal of each member firm of the joint venture shall be required.

Note in the spaces provided on the bid form, the Addenda, by numbers and dates, which have been received. If no Addenda have been received, insert the word "NONE".

Use street address in addition to a Post Office Box address (if any).

BID SECURITY INFORMATION

Bid Security, in the amount of **five percent (5%)** of the total amount of the Bid, is required to be submitted with the bid as a guarantee that the bidder will enter into the contract if awarded, and that the bidder will furnish all required information to enter into contract within **ten (10) days** after receipt of notice of award. Bid Security shall consist of a bid bond or a certified check or a bank check drawn upon a legally incorporated bank or trust company and payable to the Municipality. The bid bond must be from a Surety company approved by the State. The form of any bid bond and the surety issuing it shall be subject to the approval of the Municipality. The Bid Security of the two lowest bidders will be returned upon the acceptance of Performance and Payment Bonds and the execution of the Contract by the lowest bidder. The Bid Security of all other bidders will be returned as soon as possible after the low bidder is determined.

SUBMISSION OF BID

Submit Bid Form and Bid Security in a sealed envelope.

All bids must be received at or before the time specified in the Notice to Bidders, at the place designated for bid opening.

A late bid will be considered if (1) its arrival at the place designated after the time specified can be shown by documentary or other proofs to be due to the mishandling by employees of the Municipality and (2) that absent such mishandling, the bid would have arrived timely. Delays in the U.S. Mail or any other means of transmittal, including couriers or agents of the State, other than employees of the Municipality will not suffice to excuse late arrival.

A late bid not eligible for consideration will be returned unopened with notification of the reason for its refusal.

MODIFICATION OF BID

Bid modifications by amendment may be considered on condition that:

- 1. The amendment arrives before the time set for the bid opening.
- 2. The amendment is in writing and signed by the bidder.
- 3. The bid, as amended, conforms in all respects with the Contract Documents.

WITHDRAWAL OF BID

A bid may be withdrawn at any time prior to the time specified for opening.

After the bid opening, a bid <u>may not be withdrawn</u> prior to the date that is **fifteen (15) days** after such bid opening. Withdrawal of bid prior to such date would be cause for forfeiture of the Security Bond.

Instructions to Bidders

Notwithstanding the foregoing, after the bid opening, a bidder may request the withdrawal of the bid on the ground of demonstrable mistake in accordance with New York General Municipal Law § 103-11. Upon prompt written application, the Municipality may conduct a hearing. Each element of § 103-11 must be proven by clear and convincing evidence in order to justify withdrawal. The judgment of the Municipality shall be final and conclusive. Should the judgment be against allowing withdrawal, then the failure of the Contractor to proceed would be cause for forfeiture of their Bid Security.

DISQUALIFICATION OF BIDDERS

The Municipality reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of the bidder.

OPENING OF BIDS

Bids shall be opened as announced in the Notice to Bidders. Bidders or their authorized agents are invited to attend.

AWARD OF CONTRACT

The Contract shall be awarded to the lowest responsible and reliable bidder as will best promote public interest unless all bids are rejected by the Municipality.

If alternates are included in the Bidder's bidding documents, the Municipality reserves the right to accept or reject any or all alternates. The lowest bid will be determined by the sum of the base bid and the accepted alternates in the manner prescribed on the Bid Form.

If alternate base bids are indicated in the bidding documents, the low bid will be determined by the lowest amount bid for any of the alternate base bids.

The Municipality reserves the right to reject any or all bids, and advertise for new bids, if in its opinion the best interest of the Municipality will hereby be promoted. In the event that all bids are rejected, each bidder will be so notified.

No later than **fifteen (15) days** after the bid opening, the Municipality shall accept a bid or reject all bids. Written notification of acceptance with the final Contract Documents shall be mailed or delivered to the selected bidder.

If the selected bidder fails to execute and return the Contract Documents without modification with the bidder's Performance and Payment Bonds and Certificate of Insurance, within ten (10) days of receipt of notification, the Municipality shall have the right to reject the bid and select next lowest bidder. In this case, the Bid Security of the first bidder shall be forfeited.

INFORMALITIES

Any bid which fails to conform to the requirements of the Contract Documents may be rejected.

The Municipality may waive any informality or afford the bidder an opportunity to remedy any deficiency resulting from a minor informality or irregularity.

DETERMINATION OF CONTRACTOR'S RESPONSIBILITY

- 1. The New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2) shall be submitted by the apparent low bidder to the Owner as a condition of contract award.
- 2. Contractor shall at all times during the contract term remain a responsible vendor. Contractor agrees, if requested by the Municipality, to present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance, and organizational and financial capacity to carry out the terms of this contract.
- 3. The Municipality reserves the right to suspend any or all activities under this contract, at any time, when the Municipality discovers information that calls into question the responsibility of Contractor. In the event of such suspension, Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, Contractor must comply with the terms of the suspension order. Contractual activities may resume at such time as the Municipality issues a written notice authorizing resumption of contractual activities.
- 4. Notwithstanding the provision of Article 15 of the General Conditions of the contract pertaining to Termination and Revocation, upon written notice to Contractor and a reasonable opportunity to be heard with appropriate Municipality staff, this contract may be terminated by the Municipality at Contractor's expense where Contractor is determined by the Municipality to be non-responsible. In such event, the Municipality may pursue available legal or equitable remedies for breach.

LIQUIDATED DAMAGES

The Contract Documents contain a provision that the Contractor will pay liquidated damages for each day of delay in the physical completion of the Work.

REFUND OF DEPOSIT FOR CONTRACT DOCUMENTS

Full refund of the deposit for one set of Contract Documents will be made to Bidders who return the Contract Documents in good condition within **thirty (30) days** following the award of the contract or rejection of the bids covered by such Contract Documents. Non-bidders who have placed deposits for any sets of Contract Documents will be refunded **fifty percent (50%)** of their deposit within **thirty (30) days** following the award of the contract Documents.

Prevailing Wages – This project includes State prevailing wages.

WORKERS' COMPENSATION INSURANCE AND DISABILITY BENEFITS REQUIREMENTS

A policy covering the obligations of the Contractor in accordance with the Workers' Compensation Law and the Disability Benefits Law covering all operations under the contract, whether performed by the contractor or the subcontractor is required for all contracts. See Article **21.4 and 21.5 of the General Conditions** attached hereto. Special attention is called to the insurance requirements contained in the Supplementary Conditions for Contracts attached as **Appendix A**.

BID FORM

DETACH AND USE THIS FORM – SUBMIT ALL [4] PAGES

BID FORM: <u>SALT STORAGE SHED</u> LUMP SUM

THE TOWN RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS. EACH BID FORM SHALL BE ACCOMPANIED BY BID SECURITY IN THE FORM OF A CERTIFIED CHECK OR A BANK CHECK DRAWN UPON A LEGALLY INCORPORATED BANK OR TRUST COMPANY AND MADE PAYABLE TO THE TOWN IN THE AMOUNT STATED IN THE NOTICE TO BIDDERS.

EACH BID MUST INCLUDE THE FOLLOWING:

- COMPLETED ORIGINAL BID FORM (FULLY EXECUTED In a sealed Envelope)
- BID SECURITY (5%) IN THE AMOUNT OF \$[____]
- [WICKS EXEMPTION IF CONTRACT AMOUNT IS ABOVE APPLICABLE THRESHOLD]
- Appendix B
- Appendix C
- Draft MWBE/EEO/Section Utilization Plan, as applicable per Appendix F

Project	Location	Project Owner
SALT STORAGE SHED	8574 US RTE 9	TOWN OF LEWIS
	TOWN OF LEWIS	8574 US RTE 9
	ESSEX COUNTY, NY	POB 59
		LEWIS, NY 12950

To whom it may concern:

1. The undersigned proposes to perform the Work required for this project in accordance with the Contract Documents for the lump sum price of:

TOTAL BID AMOUNT (Total entered shall be the sum of the above noted Base Bid and Allowance amounts):

To be filled in by Contractor	ya		
In Words			
In Numbers			

In case of Discrepancy between the price in words and that in figures, the price in words will be considered the price bid.

- 2. The undersigned agrees to complete the Work per phase of the Contract by the dates noted in the Technical Specifications and Drawings and all Work no later than thirty (30) days after Contractor receives a notice to proceed with construction from the Municipality. The Contractor agrees, in the event the Contractor fails to complete all the Work on time, to pay the Municipality liquidated damages, *as stated in the General Conditions*, for each day of delay (per phase) in the physical completion of Work.
- 3. The undersigned agrees that the bid security shall become the property of the Municipality if this bid is accepted and the bidder does not submit executed copies of the Agreement contained in the Contract Documents within ten (10) days of receipt of a written request. A performance bond and a payment bond, each in an amount equal to the total bid sum, shall be submitted as required with the executed agreements and shall be the statutory form of Public Bonds required by section 137 of the State Finance Law.

4. The undersigned hereby certifies his or her compliance with the following:

NON-COLLUSIVE / PROCUREMENT LOBBYING BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any other bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

- A. The prices of this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- B. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- C. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
- D. Within the previous four years, has the bidder been found non-responsible by a government entity? (check one)

_____YES_____NO

E. If "yes", was the determination of non-responsibility due to (1) engaging in impermissible contacts with a government entity, or (2) the intentional provision of false or incomplete information to a government entity? (check one)

_____YES____NO

(If yes, please explain on a separate sheet.)

The undersigned acknowledges receipt of the following numbered addenda to the Contract Documents:

The undersigned has carefully examined the Contract Documents and agrees to perform this contract and to provide all goods and / or services, labor, material and equipment necessary for this contract. In addition, the bidder certifies that all information submitted regarding the Procurement Lobbying Law is complete, true and accurate. If such information is found to be intentionally false or intentionally incomplete, the Municipality reserves the right to terminate the resulting contract by providing written notification to the Contractor in accordance with the written notification terms of the contract.

Signature:
Print Name:
Title:
Telephone #:

Continued on next page \rightarrow

If a bidder is a corporation, indicate officers below; if a bidder is a firm, indicate members below; if a bidder is a partnership, indicate partners below:

Name

Legal Residence

(President / Member / Partner)

(Vice President / Member / Partner)

(Secretary / Member / Partner)

(Treasurer / Member / Partner)

LIST OF SUBCONTRACTORS/SUPPLIERS

Herewith is the list of subcontractors referenced in the bid submitted by:

(Bidder)

To (Owner)

Dated and which is an integral part of the Bid Form.

The following work will be performed (or provided) by subcontractors/suppliers and coordinated by us:

TRADE	NAME

LIST OF PROJECT REFERENCES (WHEN REQUESTED)

CONTACT INFORMATION	
	CONTACT INFORMATION



Bid Bond

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (Name and Address):

EJCDC

ENGINEERS JOINT CONTRA DOCUMENTS COMMITTEE

SURETY (Name, and Address of Principal Place of Business):

OWNER (Name and Address):

BID

Bid Due Date: Description (*Project Name— Include Location*):

BOND			
Bo	nd Number:		
Da	te:		
Per	nal sum	_	\$
	(Words)		(Figures)
		ficer, agei SURET	nt, or representative.
	(Seal)		(Seal)
Bidder'	s Name and Corporate Seal	Surety's	s Name and Corporate Seal
By:		_By:	
	Signature	-	Signature (Attach Power of Attorney)
	Print Name		Print Name
	Title		Title
Attest:		Attest:	
	Signature	_	Signature
	Title		Title
	ddresses are to be used for giving any required e execution by any additional parties, such as j	ioint ventı	

EJCDC® C-430, Bid Bond (Penal Sum Form). Published

2013.



1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

- 3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - **3.3** Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

AGREEMENT FORM

ESSEX COUNTY

TO BE EXECUTED BY SELECTED BIDDER ONLY

This Agreement (the "Agreement") made by and between the **TOWN OF LEWIS**, a municipal corporation, hereinafter referred to as the "Municipality" or the "Subrecipient" and **TBA**, hereinafter referred to as the "Contractor".

WITNESSETH

1) The Contractor agrees that all Contract Documents (as such term is defined in Article 1.1 of the General Conditions) are deemed attached hereto and incorporated in this Agreement. The Contractor agrees to perform the Work in accordance with all Contract Documents incorporated herein for **COMMUNITY PAVILION**.

2) The Contractor agrees that the Supplementary Conditions ("Supplementary Conditions") attached as **Appendix A** to the General Conditions shall apply to the Contractor. Contractor further agrees that it shall include such Supplementary Conditions in any subcontract entered into in connection with the Project. The Contractor shall also require all subcontractors to flowdown the Supplementary Conditions to all lower-tiered subcontractors as well as the requirement to flowdown such terms to all subcontractors below the lower-tiered subcontractors.

3) The Contractor agrees to complete the Work no later than <u>_thirty (30) _ days after the</u> Contractor receives a notice to proceed with construction from the Municipality.

4) The Contractor agrees, in the event the Contractor fails to complete all the Work on time, to pay the Municipality liquidated damages as per the **General Conditions**, Article 14.10, for each day of delay in the physical completion of the Work.

5) The Municipality agrees to pay the Contractor in accordance with the Contract Documents and in consideration of the completion of the Work, as follows:

IN WORDS:

IN NUMBERS: \$_____

CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the MUNICIPALITY and the CONTRACTOR have executed this Agreement on the date and year indicated.

ESSEX COUNTY

Date

By: Name: Jim Monty Title: Town Supervisor

CONTRACTOR

Date	By:
Date	Name (print):
	Title (print):

Federal ID Number:

CONTRACTOR'S SIGNATURE MUST BE NOTARIZED. USE EITHER THE INDIVIDUAL, PARTNERSHIP, OR CORPORATION FORM, AS APPROPRIATE

INDIVIDUAL

STATE OF NEW YORK)) SS.: COUNTY OF)

On this day of , 2019, before me personally came , to me known and known to me to be the person described in and who executed the foregoing instrument, and he or she acknowledged to me that he or she executed the same.

Notary Public

PARTNERSHIP

STATE OF NEW YORK)) SS.:

)

COUNTY OF

On this day of , 2019, before me personally came , to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for himself or herself depose and say that he or she is a member of the firm of , consisting of himself or herself and , and that he or she executed the foregoing instrument in the firm name of , had authority to sign same, and did duly acknowledge to me that he or she executed the same as the act and deed of said firm for the uses and purposes mentioned therein.

Notary Public

CORPORATION

STATE OF NEW YORK)) SS.:

)

COUNTY OF

On this day of , 2019, before me personally came , to me known, who being by me duly sworn, did depose and say that he or

of

she is the

the corporation described in and which executed the foregoing instrument; that he or she has been duly authorized by the Board of Directors of said corporation to execute the foregoing instrument on behalf of said corporation and that he or she signed his or her name thereto by order of said corporation for the purposes and uses therein described.

Notary Public

GENERAL CONDITIONS

GENERAL CONDITIONS

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Appendices:

- 1. Appendix A Supplementary Terms & Conditions;
- 2. Appendix B Iran Divestment Certification;
- 3. Appendix C Vendor Responsibility Questionnaire;
- 4. Appendix D Construction Plans & Specifications;
- 5. Appendix E Contractors Payment Application Form;
- 6. Appendix F Funding Agency Requirements;
- 7. Appendix G Prevailing Wage Rate Schedule;

ARTICLE 1 – THE CONTRACT DOCUMENTS

- 1.2 The "Contract Documents" are comprised of the following documents, in the following order of precedence all of which are hereby incorporated by reference and shall hereinafter be referenced as the "Contract."
 - 1. Notice to Bidders;
 - 2. Instructions to Bidders;
 - 3. Agreement;
 - 4. General Conditions;
 - 5. Performance Bond;
 - 6. Payment Bond;
 - 7. All Required Forms and Certificates of Insurance;
 - 8. All Addenda issued prior to the receipt of bids;
 - 9. An Approved M/WBE, SDVOB or Section 3 Utilization Plan, if required;
 - 10. Appendix A Supplementary Terms & Conditions;
 - 11. Appendix B Iran Divestment Certification;
 - 12. Appendix C Vendor Responsibility Questionnaire;
 - 13. Appendix D Construction Plans & Specifications;
 - 14. Appendix E Contractors Payment Application Form;
 - 15. Appendix F Funding Agency Requirements;
 - 16. Appendix G Prevailing Wage Rate Schedule;
- 1.3 The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, either written or oral.
- 1.4 The Contract may <u>not</u> be modified except in accordance with the General Conditions.

ARTICLE 2 – DEFINED TERMS

- 2.1 The following terms shall have the meanings ascribed to them in this Article, wherever they appear in the Contract Documents.
- 2.2 The term "Bid" means the approved prepared bid form on which the Bidder is to submit or has submitted a bid for the Project contemplated.
- 2.3 The term "Bidder" means any individual, firm or corporation submitting a Bid for the Project contemplated, acting directly or through a duly authorized representative.
- 2.4 The term "Bid Security" means the collateral in the form of a certified check, bank check or bid bond to be furnished by the Bidder as a guarantee of his or her ability to procure the minimum equipment and liquid assets specified and that Bidder shall enter into a Contract with the Municipality for the performance of the Work.
- 2.5 The term "Change Order" means a written order to the Contractor signed by the Contractor and the Municipality authorizing a Change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order.

- 2.6 The term "Comptroller" means the Comptroller of the State of New York.
- 2.7 The term "Contractor" means the person, firm, partnership or corporation executing the Contract or the successor or assignee of the Contractor approved in writing by the Municipal Representative.
- 2.8 The term "Days" shall mean calendar days.
- 2.9 The term "Liquidated Damages" means the total amount of money to be assessed against the Contractor for delay in completion of the Contract. The total amount of such damages shall not exceed the amount per day stipulated in Article 14.10 times the numbers of Days completion is delayed, unless otherwise specified in the Notice to Bidders.
- 2.10 The term "Material" means any approved material acceptable to the Municipality and conforming to the requirements of the Technical Specifications and Drawings. All processes and materials shall at all times be open to inspection and testing by the Municipality and its authorized representatives.
- 2.11 The term "Municipal Representative" means the representative of the Municipality who will have general direction and supervision of the work. The Municipality may designate any person, persons, firm, partnership or corporation to act as Municipal Representative.
- 2.12 The term "Municipality" shall mean the municipal corporation of **the TOWN OF LEWIS**.
- 2.13 The term "Offerer" shall mean the individual or entity, or any employee, agent of consultant or person acting on behalf of such individual or entity that contacts a governmental entity about a governmental procurement during the restricted period of such governmental procurement.
- 2.14 The term "Payment Bond" is a bond guaranteeing prompt payment of monies due to all persons furnishing labor or materials to the Contractor or any Subcontractor in the prosecution of the Work provided for as set forth in State Finance Law Section 137.
- 2.15 The term "Performance Bond" means a written guaranty from a third-party guarantor provided to the Municipality by Contractor upon the award of the Contract to ensure the full performance of the Work and completion of the Project as set forth in the Contract Documents. The form of the Performance Bond is subject to the approval of the Municipality.
- 2.16 The term "Physical Completion Date" means the date upon which the Contractor and the Municipal Representative agree that all deficiencies noted on the final inspection report have been corrected as evidenced by the issuance of the Physical Completion Report.
- 2.17 The term "Physical Completion Report" means the report issued by the Municipal Representative in which all the deficiencies in the Work are noted.
- 2.18 The term "Plan" or "Drawings" means an illustrated graphic that typically includes technical layout information, specification data, and details as required to facilitate the construction of an entire project or smaller unit of work.
- 2.19 The term "Premises" means all land, buildings, structures, or other items of any kind located around or adjacent to the Site and owned, occupied or otherwise used by the Municipality.

- 2.20 The term "Project" means Work at the site carried out pursuant to one or more sets of Contract Documents.
- 2.21 The term "Project Manual" means the combined Notice to Bidders, Instructions to Bidders, Addenda, Bid Forms, Agreement Form, General Conditions, All Appendices, the Summary of and Implementation Guidelines for § 139-J of the State Finance Law, Other Sample Forms, Prevailing Wage Rates, the Technical Specifications and Drawings, and the Bid, issued prior to the receipt of bids.
- 2.22 The term "Provide" means to furnish and install, complete, in place and ready for operation and use.
- 2.23 The term "Samples" are physical examples submitted by the Contractor of materials, equipment or workmanship to establish a standard, which the Contractor is required to meet.
- 2.24 The term "Schedule of Values" means a breakdown of the Contract Sum in tabular form that lists the dollar value of individual work items. Schedule to be provided in enough detail to facilitate evaluation of the Payment Application by the Municipality.
- 2.25 The term "Shop Drawings" are drawings, diagrams, illustrations, schedules, test data, performance charts, cuts, brochures and other data which are prepared by the Contractor or any Subcontractor, manufacturer, supplier or distributor, and submitted by the Contractor and which illustrate a portion of the Work.
- 2.26 The term "Site" means the area within the contract limit lines as identified in the drawings, or adjacent areas designated in writing by the Municipality. Some contracts might involve separate and distinct sites.
- 2.27 The term "State" means the State of New York.
- 2.28 The term "Subcontractor" means a person, firm, partnership or corporation executing a portion of the Work for the "Contractor," who has the sole responsibility for his or her performance.
- 2.29 The term "Substantial Completion" means that the Work or major milestones thereof as contemplated by the terms of this Contract are sufficiently complete so that the Site can occupy or utilize the Work or designated portion thereof for the use for which it is intended.
- 2.30 The term "Surety" means the entity which is bound with and for the Contractor, and which is engaged to be responsible for the Contractor's acceptable performance of the Project for which he or she has contracted and for all Labor, Performance, and Material Bonds.
- 2.31 The term "Technical Specifications" means the body of directions and/or requirements contained in this document, together with all documents of any description, and agreements made (or to be made), pertaining to the methods (or manner), of performing the work and quality (as shown by test records) of accepted materials to be furnished under this Contract.
- 2.32 The term "Work" means the total sum of labor, supervision, materials and equipment necessary for the proper completion of the Contract as set forth in the Contract Documents.

ARTICLE 3 – INTERPRETATION OF CONTRACT DOCUMENTS

- 3.1 The Technical Specifications and Drawings are complementary, and what is called for by one shall be as binding as if called for by all. It is not intended to include work not properly inferable from the Technical Specifications and Drawings. In all cases, labelled dimensions shall take precedence over scaled dimensions, and the larger scale details take precedence over smaller scale drawings. In the case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern.
- 3.2 Upon his or her own initiative or the Contractor's written request, the Municipality may issue written interpretation or drawings necessary for the proper execution or progress of the work which interpretation shall be consistent with and reasonably inferable from the Contract Documents.
- 3.3 The language of the Contract Documents is directed at the Contractor unless specifically stated otherwise.
- 3.4 The organization of the Technical Specifications into divisions, sections and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade.
- 3.5 In the event of conflicting provisions in the Contract Documents, the Technical Specifications shall take precedence over the Drawings.
- 3.6 If during the performance of the Work, the Contractor identifies a conflict in the Contract Documents, or a variation from any applicable statute, rule or regulation, the Contractor shall promptly notify the Municipality in writing of the conflict. The Municipality shall promptly acknowledge the notification in writing and advise the Contractor, pursuant to **Paragraph 3.2** of these General Conditions, as to the interpretation to be followed in the performance of the Work.

ARTICLE 4 – SHOP DRAWINGS AND OTHER SUBMITTALS

- 4.1 Shop Drawings (see Article 2.26)
- 4.2 Product data are manufacturer's catalog sheets, brochures, standard diagrams, illustrations, schedules, performance charts, test data, standard schematic drawings, specifications and installation instructions.
- 4.3 Samples are physical examples submitted by the Contractor of materials, equipment or workmanship to establish a standard that the Contractor is required to meet.
- 4.4 The Contractor and the Municipality shall adhere to the submittal and scheduling requirements for Shop Drawings, product data and Samples set out in the Technical Specifications and Drawings.
- 4.5 By approving and submitting Shop Drawings and samples, the Contractor represents that the Contractor has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data and that he or she has checked and coordinated each Shop Drawing and Sample with the requirements of the Contract

Documents.

- 4.6 The Municipality's approval of Shop Drawings, product data and Samples shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has previously informed the Municipality of the deviation in a separate writing at the time of submission and received written approval for the specific deviations. The Municipality's approval shall not relieve the Contractor from responsibility for errors or omissions in the shop drawings, product data or samples.
- 4.7 No portion of the Work requiring Shop Drawings, product data or Sample submission shall be commenced until the appropriate submission has been approved by the Municipality.
- 4.8 Any portions of the Work requiring Shop Drawings, product data and Samples shall be installed in accordance with the approved Shop Drawings, product data and Samples.

ARTICLE 5 – SCHEDULE

- 5.1 Each Contractor shall deliver to the Municipality and receive approval prior to commencing work, a detailed schedule concerning his or her operations upon the Project on a form acceptable to the Municipality, which shall indicate completion within the specified time frame, to the satisfaction of the Municipality.
- 5.2 During the term of this Agreement, the Municipality may require any Contractor to modify any schedules which he or she has submitted either before or after they are approved so that:
 - (a) The Work or the Project may be properly progressed.
 - (b) Changes in the Work or the Work of other Contractors are properly reflected in these schedules.

ARTICLE 6 – MATERIALS

- 6.1 All materials, equipment and articles used permanently in the Work that become the property of the Municipality shall be new unless specifically stated otherwise in the Contract.
- 6.2 Except where specifically provided otherwise, whenever any product is specified by the name, trade name, make, model or catalog number of any manufacturer or supplier, the intent is not to limit competition, but to establish a standard of quality that the Municipality has determined is necessary. The words "or equal" shall be deemed inserted in each instance. The Contractor may use any product equal to that named in the Contract Documents that is approved by the Municipality and which meets the requirements of the Contract Documents provided the Contractor gives timely notice of his or her intent in accordance with the submittal and scheduling requirements.
- 6.3 The Contractor shall have the burden of proving at the Contractor's own cost and expense to the satisfaction of the Municipality that the proposed product is equal to the named product. The Municipality may establish criteria for product approval. The Municipal Representative shall determine in his or her absolute discretion whether a proposed product is to be approved.

- 6.4 If the Contractor fails to comply with the provisions of this Article, or if the Municipal Representative determines that the proposed product is not equal to that named, the Contractor shall supply the product named.
- 6.5 The Contractor shall have and make no claim for the extension of time or for damages because the Municipal Representative requires a reasonable period of time to consider a product proposed by the Contractor or because the Municipal Representative disapproves such a product.
- 6.6 Where optional materials or methods are specified, or where "or equal" submissions are approved, the Contractor shall make all adjustments to contingent work, whether the contingent work be the Work of its contract or the Work of another Contract, necessary to accommodate the option or "or equal" product it selects without extra or additional cost.
- 6.7 The Contractor shall within **48 hours** remove from the Premises all materials rejected by the Municipality as failing to conform to the Contract, whether incorporated in the Work or not, and the Contractor shall promptly substitute satisfactory materials in accordance with the Contract and without expense to the Municipality. In addition, the Contractor shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.
- 6.8 Royalties and patents: The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall defend, indemnify and save the Municipality harmless from loss on account thereof, except that the Municipality shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified.
- 6.9 Asbestos Free Materials: All materials used for construction shall be free of asbestos containing materials. If asbestos is found in installed products not previously approved by the Municipality, then it will be the responsibility of the Contractor to abate the asbestos containing material and replace the work with new asbestos free materials at no cost to the Municipality.
- 6.10 The Contractor agrees that if the value of this Contract exceeds \$100,000 all structural steel, reinforcing steel and other major steel items to be incorporate in the Work of this Contract shall be produced and made in whole or substantial part in the United States, its territories or possessions.

ARTICLE 7 – CONTRACTOR'S SUPERVISION

- 7.1 The Contractor shall designate a competent supervisor for the Work to represent the Contractor at the site at all times with authority to act for the Contractor ("Contractor's Representative"). The Contractor shall notify the Municipality in writing of the identity of the Contractor's Representative prior to the commencement of the Work. All directions given the Contractor's Representative shall be as binding as if given to the Contractor.
- 7.2 Should the Municipality deem any employee of the Contractor incompetent or negligent or for any cause unfit for his or her duty, the Contractor shall dismiss such employee and he or she shall not again be employed on the Work.
- 7.3 The Contractor's use of any Subcontractor shall not diminish the Contractor's obligations

to complete the Work in accordance with the Contract. The Contractor shall control and coordinate the Work of its Subcontractors.

7.4 The Contractor shall be responsible for informing its Subcontractors and suppliers of all the terms, conditions and requirements of the Contract Documents including, but not limited to the General Conditions, Appendices, the Summary of and Implementation Guidelines for § 139-J of the State Finance Law, the Agreement Form, Other Sample Forms, Federal Labor Standards Provisions, Prevailing Wage Rates, the Technical Specifications and Drawings, the Bid Notice and Instructions to Bidders, and changes made by any other Addenda.

ARTICLE 8 – USE OF PREMISES

- 8.1 If the Premises are occupied, the Contractor, the Contractor's Subcontractors and their employees shall comply with the regulations governing access to, operation of, and conduct while in or on the Premises and shall perform the Work in such a manner as not to unreasonably interrupt or interfere with the conduct of business.
- 8.2 The Contractor, the Contractor's Subcontractors and their employees shall not have access to or be admitted into any area of the Premises outside the Site except with the written permission of the Municipality.

ARTICLE 9 – PERMITS AND COMPLIANCE WITH APPLICABLE LAWS

- 9.1 The Contractor shall obtain, maintain and pay for all permits and licenses legally required and shall give all notices, pay all fees, and comply with all laws, rules and regulations applicable to the Work at no additional cost.
- 9.2 Contractor shall comply with all federal and state laws, codes and regulations applicable to the conduct of the activities authorized by this Contract.
- 9.3 If, in carrying out this Work, a harmful dust hazard is created for which appliances or methods for the elimination of harmful dust have been approved by the Industrial Board of Appeals, then the Contractor shall install, maintain and effectively operate such appliances and methods during the life of this Contract; and in case of Contractor's failure to comply, as provided by Section 222-a of the Labor Law, the Contract shall be void.
- 9.4 In accordance with Worker's Compensation Law (WCL) §141-b (Suspension and Debarment), any person subject to a final assessment of civil fines or penalties or a stop-work order, or that has been convicted of a misdemeanor for a violation of WCL §§ 26 (Enforcement of Payment in Default), 52 (Effect of Failure to Secure Compensation) or 131 (Payroll Records), and any substantially-owned affiliated entity of such person, shall be ineligible to submit a bid on or be awarded any such public work contract or subcontract with the State, any municipal corporation or public body for a period of one (1) year from the final determination or conviction. Any person convicted of a felony under Article 8 (Administration) of the WCL, or a misdemeanor under WCL §§125 (Job Description Prohibited Based on Prior Receipt of Benefits) and 125-a (Civil Enforcement) shall be ineligible to submit a bid or be awarded any public work contract or subcontract with the State, any municipal corporation or public body for a period of five (5) years from such

conviction.

- 9.5 The Contractor certifies and warrants that all heavy-duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used under this Contract, will comply with the specifications and provisions of ECL section 19-0323 and any regulations promulgated pursuant thereto, which requires the use of BART and ULSD, unless specifically waived by New York State Department of Environmental Conservation. Qualification for a waiver under this law will be the responsibility of the Contractor.
- 9.6 During the term of this Contract, the Contractor agrees to report any observed or suspected illegal activity of its employees, agents or other third parties, to the Municipality, the State Inspector General or other law enforcement agency. Failure to report criminal conduct associated with a contract awarded by the Municipality, shall be considered a material breach of this Contract and may provide grounds for disqualification of the subject Contractor or Subcontractor for award of future contracts. The Contractor shall include the provisions of this section in every subcontract, in such a manner that the provisions will be binding upon each Subcontractor as to work performed in connection with this Contract.

ARTICLE 10 – INSPECTION AND MATERIAL ACCEPTANCE

- 10.1 The Municipality will inspect and test the Work at reasonable times at the Site, unless the Municipality determines to make an inspection or test at the place of production, manufacture or shipment. Such inspection or test shall be conclusive as to whether the material and workmanship inspected or tested conforms to the requirements of the Contract. Such inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance. Conducting inspections or tests shall not diminish the Municipality the right to reject the completed Work. The Contractor shall, without charge, promptly correct any Work the Municipality determines does not conform to the Contract Documents unless in the public interest the Municipality consents to accept such Work with an appropriate adjustment in the Contract price. The Contractor shall promptly remove rejected material from the Premises.
- 10.2 If the Contractor does not promptly correct rejected Work including the Work of another contractor or Subcontractor destroyed or damaged by removal, replacement, or correction, the Municipal Representative may (1) correct such Work and charge the cost thereof to the Contractor; or (2) terminate the Contract in accordance with **Article 15 of General Conditions**.
- 10.3 The Contractor shall furnish promptly, without additional charge, all facilities, labor, material and equipment reasonably needed to perform in a safe and convenient manner such inspections and tests, as the Municipal Representative requires.
- 10.4 The Contractor shall keep the Municipal Representative informed of the progress of the Work and particularly when the Contractor intends to cover Work not yet inspected or tested. All inspection and tests by the Municipal Representative shall be performed in such manner as not to unreasonably delay the Work. The Contractor shall be charged with any additional cost of inspection when the Work is not ready at the time specified by the Municipal Representative for inspection.

- 10.5 Should the Municipal Representative determine at any time before acceptance of the entire Work to examine Work already completed by removing, uncovering or testing the same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, materials and equipment to conduct such inspection, examination or test. If such Work is found to be defective or nonconforming in any material respect, the Contractor shall defray all the expenses of such examination and satisfactory reconstruction. If the Work is found to meet the requirements of the Contract Documents, the Municipal Representative shall compensate the Contractor for additional services involved in such examination and reconstruction. If completion of the Work has been delayed, the contractor may request a suitable extension of time.
- 10.6 No previous inspection or certificates of payment shall relieve the Contractor from the obligation to perform the Work in accordance with the Contract Documents.
- 10.7 The Contractor shall remedy all defects and pay for the cost of any damage to other Work resulting therefrom, notice of which shall have been provided within a period of **one (1) year** from the Physical Completion Date in accordance with the General Conditions.

ARTICLE 11 – CHANGE ORDERS

- 11.1 The Municipality may make changes by altering, adding to or deducting from the Work, and adjusting the Contract price accordingly. All changes to the Work shall be executed in conformity with the terms and conditions of the Contract Documents unless otherwise provided in the Order on Contract. Any change in the Contract sum or time for completion shall be adjusted prior to issuing the Order on Contract.
- 11.2 No written or oral instructions shall be construed as directing a change in the Work unless in the form of an Order of Contract signed by the Municipality and the Contractor. The Order of Contract shall describe or enumerate the Work to be performed and state the price to be added to or deducted from the Contract sum. If the extent or cost of the Work is not determinable until after the changed Work is performed, the Order on Contact shall specify the method for determining the cost and extent of the changed Work when completed. If the Contractor disagrees as to any element of the Order on Contract, the Contractor shall indicate the disagreement in writing on the face of the Order on Contract and promptly proceed in accordance with the Order on Contract.
- 11.3 If the Contractor is directed to perform Work for which the Contractor believes he or she is entitled to an Order of Contract, the Contractor shall give the Municipal Representative prompt written notice and await instructions before proceeding to execute such Work. The Municipal Representative may order the Contractor to execute the Work and proceed under the Disputes Clause.
- 11.4 The value of any Order of Contract shall be determined by one or more of the following methods:
 - (a) By acceptance of prices negotiated or established based on estimated cost plus overhead and profit as applicable.
 - (b) By Prices specifically named in the Technical Specifications or Bid Form.
 - (c) By acceptance of agreed unit prices based on estimated cost plus overhead and

profit as applicable.

- (d) By estimate of the actual cost of labor and materials plus overhead and profit, cost to be determined as the work progresses.
- (e) By actual cost of labor and materials plus overhead and profit, cost to be determined as the work progresses.
- (f) By estimate of the value as deducible from the approved detailed estimate.
- 11.5 Overhead shall be defined as an allowance to compensate for all costs, charges and expenses, direct or indirect, except for the actual cost of labor and materials as defined by paragraph 11.6. Overhead shall be considered to include, but not limited to insurance (other than as mentioned in paragraph 11.6) bond or bonds, field and office supervisors and assistants above the level of foreman, use of small tools and minor equipment, incidental job burdens, general office expenses, etc.
- 11.6 Actual cost of labor and material shall be defined as the amount paid for the following costs, to the extent determined reasonable and necessary:
 - (a) Cost of materials delivered to the job site for incorporation into the Contract Work. The value of any material removed and disposed of by the Contractor shall be a credit to the Municipality.
 - (b) Wages paid to workers and foreman and wage supplements paid to labor organizations in accordance with current labor agreements.
 - (c) Premiums or taxes paid by the Contractor for Worker's compensation insurance, unemployment insurance, FICA tax and other payroll taxes as required by law, net of actual and anticipated refunds and rebates.
 - (d) Sales taxes paid as required by law.
 - (e) Allowance for use of construction equipment (exclusive of hand tools and minor equipment), as approved for use by the Municipal Representative.
 - i. Rented equipment will be paid for at the actual rental cost.
 - ii. Gasoline, oil and grease required for operation and maintenance will be paid for at the actual cost.
 - When, in the opinion of the Contractor, and as approved by the Municipal Representative, suitable equipment is not available on the site, the moving of said equipment to and from the site will be paid for at actual cost.
 - iv. Self-owned equipment, including equipment rented from controlled or affiliated companies. The rate on self-owned equipment used for periods of under five (5) days will be an hourly rate established by taking any published rate which is mutually acceptable to the Contractor and the Municipal Representative and determining an hourly rate on the basis of twenty-two (22) days per month and eight (8) hours per day. Equipment used for periods of five (5) days or more will be billed at a rate equal to forty-five percent (45%) of the monthly rate. In the alternative, the Municipal Representative may approve for reimbursement a rate representing the allocable costs of ownership.

- 11.7 Regardless of the method used to determine the value of any Order of Contract, the Contractor will be required to submit evidence satisfactory to the Municipal Representative to substantiate each and every item that constitutes his or her proposal of the value of the change. The amounts allowed for overhead and profit shall not exceed the applicable percentages as established in the two following paragraphs.
- 11.8 If the work is done directly by the Contractor, overhead in an amount of ten percent (10%) may be added if method (a), (c), (d) or (e) is used, and to the cost of the labor and materials plus overhead there may be added ten percent (10%) for profit. The percentages for overhead and profit may vary accordingly to the nature, extent and complexity of the Work involved, but in no case shall exceed the percentages set forth in this paragraph and in **paragraph 11.9**. No percentages for overhead and profit will be allowed on payroll taxes or on the premium portion of overhead pay.
- 11.9 If the Work is done by a subcontractor, subcontractor's overhead in the amount of five percent (5%) may be added to the cost of labor and materials if method (a), (c), (d), and (e) is used and to the cost of labor and materials plus overhead there may be added ten percent (10%) for the subcontractor's profit. No percentage for overhead and profit will be allowed on payroll taxes or on the premium portion of overtime pay. However, to the extent that the aggregate dollar value of Orders on Contract exceeds \$75,000, the ten percent (10%) overhead applied to total costs of labor and materials incurred by the prime Contractor shall be reduced to five percent (5%). In addition, on all individual Orders of Contract in excess of \$75,000, the overhead shall be no more than five percent (5%) of the total actual cost of labor and materials incurred by the contractor's overhead and profit allowance applied to subcontract billings shall be no more than five percent (5%).
- 11.10 The Municipal Representative shall determine by which of the foregoing methods of value of any changes shall be computed.
- 11.11 In computing the value of an Order on Contract which involved additions and deductions of Work and the added Work exceeds the omitted Work, overhead and profit shall be computed on the amount by which the cost of additional labor material exceeds the cost of the omitted labor and material, except no additional overhead and profit shall be allowed on value of work determined by method (b).
- 11.12 In computing the value of an Order of Contract which involves deductions and additions of Work and the omitted work exceeds the added Work, the Contractor will be allowed to retain the overhead and profit on the amount by which the omitted Work exceeds the added Work, except that no overhead and profit shall be retained on value of Work determined by method (b).
- 11.13 The Contractor may retain overhead and profit on an Order of Contract which involved deductions only, except that no overhead and profit shall be considered on value of Work determined by method (b).

ARTICLE 12 – SITE CONDITIONS

12.1 If the Contractor encounters subsurface or other latent physical conditions at the Site which differ substantially from those shown, described or indicated in such information

provided in the Contract Documents or from any information which is a public record and which subsurface or other latent physical condition could not have been reasonably anticipated from that information or from the Contractor's own inspection and examination of the Site, the Contractor shall give immediate written notice to the Municipal Representative before any such condition is disturbed. The Municipal Representative shall promptly investigate and, if it is determined that the conditions substantially differ from those that should have been reasonably anticipated, shall make such changes in the Contract Documents as may be required. If necessary, the Contract sum and completion date shall be adjusted by Change Order, to reflect any increase or decrease in the cost of, or time required for, performance of the Contract.

- 12.2 The Contractor shall protect trees, shrubbery and other natural features or structures within the Premises from being cut, trimmed, or injured, unless directed by the Municipal Representative for preparing the Site for the Work. The Contractor shall prevent employees from tramping in the shrubbery and vehicles from being driven through wooded lands. When necessary, the Contractor shall protect trees adjacent to the premises in a matter satisfactory to the Municipal Representative.
- 12.3 The Contractor shall provide and replant at its own expense trees, shrubbery, and other natural features destroyed or damaged. The Contractor shall conduct its operations within the Premises as directed by the Municipal Representative.

ARTICLE 13 – SUSPENSION OF WORK

- 13.1 Suspension of Work: The Municipal Representative may order the Contractor in writing to suspend, delay, or interrupt performance of all or any part of the Work for a reasonable period of time as the Municipal Representative, in his or her sole discretion, may determine ("Suspension Order"). The order shall contain the reason or reasons for issuance that may include but shall not be limited to the following: latent field conditions, substantial program revisions, civil unrest, and acts of God.
 - 13.1.1 Upon receipt of a Suspension Order, the Contractor shall, as soon as practicable, cease performance of the Work as ordered and take immediate affirmative measures to protect such Work from loss or damage.
 - 13.1.2 The Contractor specifically agrees that a suspension, interruption or delay of the performance of the Work pursuant to this Article shall not increase the cost of performance of the Work of this Contract.
 - 13.1.3 A Suspension Order issued by the Municipal Representative pursuant to this Article shall have duration not to exceed thirty (30) days. If the Contractor is not directed to resume performance of the Work affected by said Suspension Order prior to the expiration of thirty (30) days, the Contract may be terminated for the convenience of the Municipality and the Contractor shall be reimbursed as provided by Article 15.
- 13.2 Stop Work Orders: If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the Municipal Representative may order Contractor to stop the Work, or any portion

thereof, until the cause for such order has been eliminated; however, this right of the Municipal Representative to stop the Work shall not give rise to any duty on the part of the Municipal Representative to exercise this right for the benefit of Contractor or any other party.

- 13.2.1 Contractor shall bear all direct, indirect and consequential costs of such order to Contractor to stop Work including but not limited to fees and charges of engineers, architects, attorneys and other professionals, any additional expenses incurred by the Municipality due to delays to others performing work under a separate contract with the Municipal Representative, and other contractual obligations, and Contractor shall further bear the responsibility for maintaining schedule and shall not be entitled to any extension of contract time or recovery of any delay damages due to the order to stop Work.
- 13.2.2 In the event that Contractor fails to pay such costs within **thirty (30) days** after receipt of an invoice from the Municipality, a Change Order or proposed Change Order may be issued incorporating the unpaid amount as an appropriate reduction in the Contract Price. If the parties are unable to agree as to the amount thereof, the Contractor may make a claim therefore as provided in **Article 11** of the General Conditions.

ARTICLE 14 – TIME OF COMPLETION AND TERMINATION FOR CAUSE

- 14.1 All time limits set forth in this Contract are of the essence. Failure by the Contractor to meet with the Contract deadlines shall be cause for the Municipality to assess Liquidated Damages.
- 14.2 Termination for Cause. In addition to all other rights of termination provided by law and in this Contract, if any one or more of the following events shall occur, that is to say:
 - 14.2.1 If Contractor commences a voluntary case under any chapter of the Bankruptcy Code, as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
 - 14.2.2 If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state law in effect at the time relating to bankruptcy or insolvency;
 - 14.2.3 If Contractor makes a general assignment for the benefit of creditors;
 - 14.2.4 If a trustee, receiver, custodian or agent of Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;
 - 14.2.5 If Contractor admits in writing an inability to pay its debts generally as they become due;
 - 14.2.6 If Contractor fails 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 established under **Article 5.1** as revised from time to time or failure to submit an updated schedule as required by **Article 5.2**;

- 14.2.7 If Contractor disregards the authority of the Municipal Representative; or
- 14.2.8 If Contractor filed certification in accordance with New York State Finance Law § 139-k which was intentionally false or intentionally incomplete.
- 14.3 If in the judgment of the Municipal Representative, the Contractor fails or refuses to prosecute the Work in accordance with the Contract or fails to complete the Work within the time provided by the Contract, the Municipal Representative may terminate the Contract by written notice to the Contractor in the manner set forth in **Article 28.2** herein and to the Surety in the manner set forth in the Performance Bond. In such event, the Municipal Representative shall direct the Surety to complete the Work. If the Surety fails or refuses to complete the Work, the Municipal Representative may take over the Work and prosecute it to completing the Work, such of the Contractor's materials, equipment and plant as may be on the Site of the Work. Whether or not the right to terminate is exercised, the Contractor's failure or refusal to complete the Work in accordance with the Contract or his or her failure to complete the Work within the time provided by the Contract.
- 14.4 If the Municipal Representative terminates the Contract for failure to prosecute the Work, in addition to any damages provided for by law, the delay shall occasion the payment of damages by Contractor which shall consist of Liquidated Damages until the Work is physically completed, plus any increased costs the Municipality incurs in completing the Work.
- 14.5 The Contract shall not be so terminated nor the Contractor charged with resulting damage if:
 - (a) The delay in the completion of the Work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor including, but not restricted to, acts of God, acts of the public enemy, acts of another Contractor in the performance of a contract with the Municipality, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and
 - (b) The Contractor shall notify the Municipal Representative in writing of the causes of delay within **ten (10) days** from when the Contractor knew or ought to have known of any such delay.
- 14.6 The Municipal Representative will ascertain the facts and the extent of the delay and extend the time for completing the Work when, in the Municipal Representative's judgment, the findings of fact justify such an extension, and his or her findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in these General Conditions.
- 14.7 If after notice of termination of the Contract, it is determined for any reason that the

Contractor was not in default or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

- 14.8 The rights and remedies of the Municipality provided in this clause are in addition to any other rights and remedies provided by law or under this Contract, provided that damages for delay incurred by the Contractor shall be as specified in Articles 14.3 and 14.4.
- 14.9 The Municipality reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Municipality may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.
- 14.10 Liquidated Damages: The work represented in this Contract is part of a comprehensive program, undertaken by the Municipality in the belief that the expenditures are justified by the benefits which accrue to the public. If the public does not get the full and complete use of facilities for which the expenditures are made, a resulting financial loss cannot be exactly computed. Accordingly, a deduction, indicated below or in the Notice to Bidders, will be made from the Contract price for every calendar day after the completed in every detail. Said sum, because of the difficulty in determining accurately the loss to the Municipality, is hereby fixed and agreed as the Liquidated Damages that the Municipality will suffer by reason of such delay, and not as a penalty; such Liquidated Damages, as defined for this Project, are understood and agreed to be the actual cost of all extra inspection, salaries of contingent force, and other engineering expenses entailed upon the Municipality as a result of such delay. The Liquidated Damages set forth herein apply only to a delay in completion of the Project and in no way are such damages to be interpreted as being the Municipality's exclusive remedy under the Contract or in Law.
- 14.11 Contractor Responsibility:
 - (a) Contractor shall at all times during the contract term remain a responsible vendor. Contractor agrees, if requested by the Municipality, to present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance and organizational and financial capacity to carry out the terms of this contract.
 - (b) The Municipality reserves the right to suspend any or all activities under this contract, at any time, when the Municipality discovers information that calls into question the responsibility of Contractor. In the event of such suspension, Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, Contractor must comply with the terms of the suspension order. Contractual activities may resume at such time as the Municipality issues a written notice authorizing resumption of contractual activities.
 - (c) Notwithstanding the provision of **Article 14** of the contract pertaining to Termination and Revocation, upon written notice to Contractor and a reasonable opportunity to be heard with appropriate Municipality staff, this

contract may be terminated by the Municipality at Contractor's expense where Contractor is determined by the Municipality to be non-responsible. In such event, the Municipality may pursue available legal or equitable remedies for breach.

ARTICLE 15 – TERMINATION OF CONTRACTOR'S EMPLOYMENT FOR THE CONVENIENCE OF THE MUNICIPALITY

- 15.1 The Municipal Representative may terminate this Contract whenever in the Municipal Representative's judgment the public interest so requires by delivering to the Contractor a notice of termination specifying the extent to which performance of Work under the Contract is terminated and the date upon which such termination becomes effective. Upon receipt of the notice of termination, the Contractor shall act promptly to minimize the expenses resulting from such termination. The Municipality shall pay the Contractor the sum of:
 - (a) The costs actually incurred up to the effective date of such termination,
 - (b) The cost of settling and paying claims arising out of the termination of Work under subcontracts or orders exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of Work under this Contract, which amounts shall be included in the cost on account of which payment is made under (a) above, and
 - (c) The rate of profit and overhead on (a) and (b). If the Contractor would have sustained a documentable loss on the entire Contract had it been completed, no profit shall be included or allowed under this subparagraph and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.
- 15.2 In no event shall the Contractor's compensation exceed the total Contract amount.
- 15.3 The amount of progress payments made to the Contractor prior to the date of termination was effective shall not be conclusive evidence of costs incurred, but progress payments shall be offset against any payment which the Municipality makes to the Contractor as a result of such termination.

ARTICLE 16 – DISPUTES

16.1 The Contractor shall submit any dispute relating to the performance of this Contract to the Municipal Representative, who shall reduce his or her decision to writing and furnish a copy thereof to the Contractor in accordance with Appendix A – Supplementary Terms & Conditions. The Contractor shall submit the matter in dispute to the Municipal Representative in writing no more than fifteen (15) days after he or she knew or should have known of the facts which are the basis of the dispute.

Upon appeal, the decision of the Municipal Representative shall be final and conclusive unless the decision is fraudulent, capricious, arbitrary or so grossly erroneous as

necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding held pursuant to this Article, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his or her appeal. Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Municipal Representative's decision. Nothing in this Contract shall be construed as making final the decision of any administrative official upon a question of law.

ARTICLE 17 – STATUTORY REQUIREMENTS FOR THE UTILIZATIONS OF DISADVANTAGED BUSINESS ENTERPRISES

17.1 The Contractor shall make a good faith effort to solicit active participation in the Work by enterprises identified in the directory of certified businesses obtainable from the Division of Minority and Women's Business (MWBE), Service Disabled Veteran Owned Business (SDVOB) or Section 3 Business Development, New York State Department of Economic Development in accordance with **Part II of the Contract Documents, Section 6 of the Supplementary Conditions**.

ARTICLE 18 – SUBCONTRACTS

- 18.1 Before any part of the Contract shall be sublet, the Contractor shall submit to the Municipal Representative in writing the name of each proposed Subcontractor and supplier and obtain the Municipal Representative's written consent to such Subcontractor and supplier. The names shall be submitted in ample time to permit acceptance or rejection of each proposed Subcontractor by the Municipal Representative without causing delay in the work of the Project.
- 18.2 If the value of the Subcontract is \$10,000 or more, the Contractor shall promptly furnish a "NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR PROFIT CONSTRUCTION (CCA-2)" for each Subcontractor and receive approval of the same prior to delivery of materials or performance of work from this Subcontractor.
- 18.3 The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the work in accordance with the Contract. Each Contractor shall control and coordinate the work of his or her Subcontractors.
- 18.4 The Contractor shall be responsible for informing the Subcontractors of all the terms, conditions and requirements of the Contract Documents including, but not limited to the General Conditions and the Technical Specifications.

ARTICLE 19 - COORDINATION OF SEPARATE CONTRACTS (WICKS LAW AFFECTED PROJECTS)

19.1 The Municipality may award other contracts related to the Work. In that event, the Contractor shall coordinate his or her work with the Work of other contractors in such manner as the Municipality may direct. All contractors shall exchange working drawings, examine them and report any interferences or objections to the Municipal Representative, in order to avoid delays. Each contractor shall control and coordinate the work of his or her Subcontractors, if any. The Municipality shall approve or require the modification of the work schedules of all contractors to the end that the Project may be progressed as expeditiously as the case permits.

- 19.2 If any part of the Work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report in writing to the Municipal Representative any defects in such work. The failure to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work.
- 19.3 The Municipal Representative shall issue appropriate directions and take such other measure to coordinate and progress the Work as may be reserved to the Municipality in the Contract, and which an ordinarily reasonable project owner in similar circumstances would be expected to take. However, the Municipality shall not be liable for mere errors in judgment as to the best course of action to adopt among the alternatives available in any given instance.
- 19.4 The award of more than one contract for the Project requires sequential or otherwise interrelated contractor operations and will involve inherent coordination in the progress of any individual contractor's work. Accordingly, the Municipality cannot guarantee the unimpeded operations of any contractor. The Contractor acknowledges these conditions and understands that he or she shall bear the risk of all ordinary delays caused by the presence or operations of other contractors engaged upon the project, and ordinary delays attendant upon any Municipality approved construction schedule. Should a contractor sustain damage through any act or omission of any other contractor, the contractor shall have no claim against the Municipality.
- 19.5 The Municipality shall not be liable for ordinary delays in any case nor for extraordinary delays that occur due to any contractor's failure to comply with directions of the Municipality or because of the neglect, failure or inability of any contractor to perform his or her work efficiently.
- 19.6 Any claim for extraordinary delay caused by an allegedly unreasonable or arbitrary act, or failure to act, by the Municipal Representative in the exercise of his or her responsibility for supervision and coordination of the Work, shall be waived, released and discharged unless the Contractor whose work is impeded or delayed thereby, shall give notice in writing to the Municipal Representative as promptly as possible and in sufficient time to permit the Municipal Representative to investigate appropriate instructions.
- 19.7 The neglect or refusal of a Contractor to comply with supervisory directions issued by the Municipal Representative pursuant to his or her responsibility for supervision of the Work shall constitute a failure to progress the work diligently in accordance with the Contract requirements and shall justify withholding payments otherwise due, or termination of the Contract as detailed in **Article 15**.
- 19.8 The Contractor shall indemnify the Municipality for damages recovered against the Municipality by another contractor to the extent that any such claim or judgment is the proximate cause of the Contractor's failure to progress the work in accordance with Contract requirements.

ARTICLE 20 – RESPONSIBILITY FOR DAMAGE AND INDEMNIFICATION

- 20.1 The Contractor shall faithfully perform and complete all of the work required by the Contract, and has full responsibility for the following risks:
 - (a) Loss or damage, direct or indirect; to the Work including the building or structure in which the Work is being performed, or any other construction in progress, whether being performed by any other contractor or by the Municipality, or to any plant, equipment, tools, materials or property furnished, used, installed, or received by the Municipal Representative under this Contract or any other contract. The Contractor shall bear all such risk of loss or damage, until all of the Work covered by the Contract has been finally accepted. In the event of such loss or damage, the Contractor shall forthwith repair, replace, and make good any such loss or damage without additional costs.
 - (b) Injury to persons (including death resulting therefrom), or damage to property caused by an occurrence arising out of the performance of this Contract for which the Contractor may be liable under any theory of law.
- 20.2 Contractor assumes all risks in the performance of all activities authorized by this Contract and agrees to defend, indemnify and hold harmless the Municipality, their officers, employees, agents and assigns (hereinafter, collectively the "Indemnitees") from and against any and all claims, suits, losses, damage or injury to persons or property of whatsoever kind and nature, whether direct or indirect, caused or contributed to by Contractor and Contractor's sub-contractors, vendors, material suppliers, employees, agents, invitees and guests, and/or arising out of Contractor's conduct and/or Contractor's performance pursuant to this Contract, provided however that Contractor's indemnity shall not extend to any claims, liabilities, losses, damages, expenses, accidents or occurrences arising out of, relating to, or in connection with: (i) the negligence of any Indemnitee; or (ii) the Indemnitees' ordinary upkeep and maintenance of grounds and facilities outside of the Premises. Contractor shall defend at its sole cost and expense any action commenced for the purpose of asserting any claim of whatsoever character arising out of this Contract. Contractor's responsibility under this section shall not be limited to the required or available insurance coverage.
- 20.3 For all purposes hereunder, the Municipality shall not be liable for any injury, loss or damage to Contractor, its agents, servants, sub-contractors, vendors, invitees and guests, or to any person happening on, in or about the Premises or its appurtenances, nor for any injury or damage to the Premises or to any property belonging to Contractor or to any other person, that may be caused by fire, theft, breakage, vandalism or any other use or misuse or abuse of any portion of the Premises, including but not limited to any common areas, sidewalks, roads, or water in or adjacent to the Premises, or that may arise from any other cause whatsoever, unless, and only to the extent of the proportion of which any such injury, loss or damage is determined to be caused by the negligence of the Municipality.
- 20.4 The Municipality shall not be liable to Contractor, its agents, contractors, vendors, invitees and guests, or any other person, for any failure of water supply, gas supply or electric current, nor for any injury or damage to any property of Contractor or any other person or to the Premises, caused by or resulting from spill or release of gasoline, oil, steam, gas, or

electricity, or caused by leakage of any substance from pipes, appliances, sewers or plumbing works, or caused by hurricane, flood, tornado, wind or similar storm or disturbance, or caused by water, rain or snow that may leak or flow from the street, sewers or subsurface areas, or from any part of the Premises or any body of water within or adjacent to the Premises, or caused by any public or quasi-public work, unless, and only to the extent of the proportion by which any such injury, loss or damage is determined to be caused by the negligence of the Municipality.

- 20.5 The Municipality may retain such monies from the amount due the Contractor as may be necessary to satisfy any claim for damages recovered against the Municipality. The Contractor's obligations under this paragraph shall not be deemed waived by the failure of the Municipality to retain the whole or any part of such monies due the Contractor, nor shall such obligation be deemed limited or discharged by the enumeration or procurement of any insurance for liability for damages imposed by law upon the Contractor, Subcontractor or the Municipality.
- 20.6 The Contractor agrees to make no claim for damages in the performance of the Contract occasioned by any act or omission to act of the Municipality or its representatives and agrees that any such claim shall be fully compensated for by an extension of time to complete performance of the Work as provided herein.
- 20.7The Contractor shall not create or cause to be created any lien, encumbrance or charge upon the Premises, the Municipality or any part thereof. If any mechanics, laborers or similar statutory or common law lien (including tax liens, provided that the underlying tax is an obligation of Contractor by law or by a provision of this Contract) caused or created by Contractor is filed against the Premises, or if any public improvement lien created or caused to be created by Contractor is filed against any assets of, or funds appropriated by the Municipality, then Contractor shall, within forty-five (45) days after receipt of notice of the lien, cause it to be vacated or discharged of record by payment, deposit, bond, court order, or otherwise. However, Contractor shall not be required to discharge any such lien if Contractor shall have: (i) furnished the Municipality with, at Contractor's option, a cash deposit, bond, letter of credit (from an institutional lender in a form satisfactory to the Municipality), or other security reasonably satisfactory to the Municipality in an amount sufficient to discharge the lien and all applicable interest, penalties and/or costs; and (ii) brought an appropriate legal proceeding to discharge the lien and is prosecuting such proceeding with diligence and continuity; except that if despite Contractor's efforts to discharge the lien the Municipality reasonably believes the lien is about to be foreclosed and so notifies Contractor, Contractor shall immediately cause such lien to be discharged of record or the Municipality may use the security furnished by Contractor in order to discharge the lien.

ARTICLE 21 - INSURANCE

- 21.1 General Requirements
 - (a) Insurance coverage shall be provided only by an insurance carrier rated A-, Class VII or better throughout the term of this Contract. Such carrier shall be duly licensed in the State of New York.
 - (b) All insurance policies and certificates shall include the following provision:

"Consistent with the requirements of Contract Documents and the State of New York, the **TOWN OF LEWIS** is an additional insured". Simply designating the Municipality as a "certificate holder" shall not constitute compliance with this section.

- (c) All insurance coverage shall be written such that the Municipal Representative is afforded at least **thirty (30) days** prior notice of cancellation of any insurance. No policy shall be changed by endorsement without the knowledge and consent of the Municipal Representative, and, in particular, any notice of cancellation by the insurer shall not be effective until **thirty (30) days** after the said notice is actually received by the Municipal Representative. Any notice shall be addressed to the Municipal Representative and shall be mailed via certified or registered mail and copied to the Municipality as set forth in **Article 28.2**.
- (d) Before commencing the Work, the Contractor shall furnish to the Municipal Representative a certificate or certificates of insurance showing that the Contractor has complied with this clause. In addition, for policies expiring on a fixed date before final acceptance, certificates of insurance showing their renewal must be filed not less than **thirty (30) days** before such expiration date.
- (e) Contractor shall notify the Municipality of any accidents and/or claims, including without limitation accidents or claims involving bodily injury, death or property damage, arising on or within the Premises. Such notice shall be provided in writing as soon as practicable, however in any event within **five (5) days** of Contractor's receipt of notice of the accident or claim.
- 21.2 Liability Insurance
 - (a) Contractor shall procure and maintain without interruption, at its sole cost and expense, during the term of this Contract (or any extensions thereof) and for a period of two years thereafter, insurance of the type, and with limits and deductibles, as follows:
 - i. <u>Commercial General Liability Insurance and Excess Liability Insurance</u>. Providing both bodily injury (including death) and property damage insurance with limits in the aggregate and per occurrence in accordance with the following table:

Construction Contract Value	Commercial General Liability in combination with Excess (Umbrella) Liability		
	Each Occurrence	General Aggregate	
<\$10M	\$2,000,000	\$2,000,000	
>\$10M - \$50M	\$5,000,000	\$5,000,000	
>\$50M	\$10,000,000 \$10,000,000		

Such insurance is to be written on an occurrence basis with defense outside of limits. The Municipality shall be named as an additional insured. The minimum required level of insurance may be provided through a combination of commercial general liability and umbrella and/or excess liability policies.

- ii. <u>Automobile Liability and Property Damage Insurance</u>. In an amount not less than One Million Dollars (\$1,000,000) combined single limit for both Bodily Injury and Property Damage.
- iii. <u>Professional Liability</u>. If the Contractor is engaged in providing professional services under this Contract, professional errors and omissions coverage with a limit not less than Two Million Dollars (\$2,000,000) in the aggregate and One Million Dollars (\$1,000,000) per occurrence. If the Contractor is not engaged in providing professional services under this Contract, this professional errors and omissions coverage is not required.
- (b) In addition to the foregoing, Contractor and any subcontractors shall procure and maintain any and all insurance which is required by any applicable current or future law, rule, regulation, ordinance, permit, license, order or other legal requirement.
- (c) All insurance shall be primary and non-contributory and shall waive subrogation against the Municipality and all of either of their former, current, or future officers, directors, and employees. No deductible of more than \$50,000 shall be permitted without advance written approval by the Municipality, which the Municipality may withhold, condition or deny in its sole and exclusive discretion.
- (d) The Contractor shall provide Certificates of Insurance to the Municipality prior to the commencement of work and shall provide full and complete copies of the actual policies and all endorsements upon request. Subcontractors under this Contract shall be required to maintain insurance meeting all of the requirements set forth in Section (a) above for items (i)-(iii); however Contractor shall require subcontractors to maintain greater limits and/or other or additional insurance coverages if greater limits and/or other or additional insurance coverages are (A) generally imposed by the Contractor given its normal course of business for subcontracts for similar work or services to those being provided by the subcontractor at issue; or (B) reasonable and customary in the industry for similar work or services to those anticipated hereunder.
- 21.3 Builder's Risk Insurance.
 - (a) The Contractor shall maintain builder's risk insurance for the completed value of the Contract on the All Risk Form. Builder's Risk insurance applies only to contracts that involve buildings or structures being constructed, erected or fabricated.
 - (b) In case the Municipality shall occupy all or any part of any building or buildings included in the Contract prior to the issuance of the final certificate of occupancy, the Contractor shall notify the fire insurance company or companies. Such occupancy by the Municipality shall not require consent of the insurer nor shall the insurer require any rate adjustment as a result of such occupancy.
- 21.4 Worker's Compensation. Proof of Compliance with Workers' Compensation Coverage Requirements: An ACORD form is NOT acceptable proof of workers' compensation

coverage. Contractor shall provide to the Municipality one of the following forms for itself and any subcontractor prior to award:

Form CE-200, Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required.

Form C-105.2 (9/07) if coverage is provided by the contractor's insurance carrier, contractor must request its carrier to send this form to the Municipality, or

Form U-26.3 if coverage is provided by the State Insurance Fund, contractor must request this be sent to the Municipality

Form SI-12 Certificate of Workers' Compensation Self-Insurance

Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self Insurance

In accordance with New York General Municipal Law § 108, this Contract shall be void and of no effect unless the Contractor secures compensation for the benefit of, and keeps insured during the life of the Contract, employees engaged on the Project, in compliance with the provisions of the New York Workers' Compensation law.

21.5 Disability Benefits. Proof of Compliance with Disability Benefits Coverage Requirements: An ACORD is NOT acceptable proof of disability benefits coverage. Contractor shall provide to the Municipality one of the following forms for itself and any subcontractor prior to award:

Form CE-200, Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required.

Form DB-120.1, Certificate of Disability Benefits Insurance

Form DB-155, Certificate of Disability Benefits Self Insurance

ARTICLE 22 - OCCUPANCY PRIOR TO COMPLETION AND ACCEPTANCE

22.1 The Municipality shall have the right to take possession of or use any completed or partially completed portion of the Work. Written notice of such possession shall be given to the Contractor by the Municipal Representative. The notice shall identify the date when such possession shall commence and the area, equipment or system involved. Written notice shall also be given to the Contractor for any cessation of such possession by the Municipality. Such possession or use shall not be deemed an acceptance of any Work. While the Municipality is in such possession, the Contractor, notwithstanding the provisions of **Article 20 of the Contract**, shall be relieved of the responsibility for the risk of loss or damage to the Work except for that resulting from the Contractor's fault or negligence. If such possession or use by the Municipality delays the progress of the Work or causes additional expense to the Contractor, an adjustment in the Contract price and/or the time of completion shall be made and the Contract price or the time of

completion contained in this paragraph shall not apply to occupancy or possession after Substantial Completion.

ARTICLE 23 – PAYMENT

- 23.1 The Contractor may submit monthly payment applications according to Appendix A Supplementary Terms & Conditions, or more frequently if permitted by making a request in writing to the Municipal Representative, on the Contractor Payment Application as provided in Appendix D, a requisition for a progress payment for Work performed and materials furnished to the date of the requisition, less any amount previously paid to the Contractor. Except as otherwise provided by this Contract, the Municipality shall approve and pay the requisition for the progress payment less an amount necessary to satisfy any claims, liens or judgments against the Contractor which have not been suitably discharged and less any amount authorized by law or Contract to be retained. The requisition shall be in such form and supported by such evidence and backup documentation as the Municipal Representative may require which includes, but may not be limited to:
 - Submittals noted to be due for approval by Owner and/or Engineer;
 - Certified Payrolls on the WH-347 Form; (<u>https://www.dol.gov/whd/forms/wh347.pdf</u>)
 - Materials Usage for the Invoiced term, listed by week;
 - Construction Photos;
 - Monthly Program Reports, such as EEO, M/WBE, SSDVOB, Section 3, etc.
- 23.2 The Contractor agrees that, if the Contract Documents for this Contract includes Performance and Payment Bonds, the Municipality shall retain five percent (5%) of the amount of each progress payment in accordance with Section 139-f of the State Finance Law. The Contractor further agrees that, if the Contract Documents for this Contract do not include Performance and Payment Bonds, the Municipality shall retain ten percent (10%) of the amount of each progress payment in accordance with Section 139-f of the State Finance Law.
- 23.3 All requisitions for payments shall be submitted to the Municipal Representative. The Municipal Representative shall notify the Contractor of any defect in any requisition within **twenty (20) days** of the receipt of such requisition and shall complete the review and audit of each complete requisition within **forty-five (45) days** of receipt thereof.
- 23.4 The Municipality may refuse to approve the requisition or a portion thereof if in the Municipal Representative's or Municipality's judgment the Contractor is failing or refusing to prosecute the Work in accordance with the Contract.
- 23.5 Payment may be made for approved materials not yet incorporated in the Work in accordance with the Schedule of Values and Section 139(f) of the State Finance Law. Requisitions, which require payment for materials, shall be accompanied by a notarized statement certifying that the materials for which payment is requisitioned are the Contractor's property and have been suitably stored and insured. The Contractor shall provide such evidence of the value of the material stored as the Municipal Representative may reasonably require. The Contractor shall have full continuing responsibility to insure and protect such materials and maintain them in proper condition to fulfill Contract

requirements when installed.

- 23.6 When the Work is substantially completed, the Contractor shall submit to the Municipal Representative a requisition for payment of the remaining amount of the Contract balance and notarized Waiver of Claims for all Work from the Contractor and any Subcontractors. Upon receipt of such requisition and accompanying Waivers the Municipality shall, except as otherwise provided by this Contract, approve and pay the remaining amount of the Contract balance less two times the value of any remaining items to be completed and an amount necessary to satisfy any claims, liens or judgments against the Contractor which have not been suitably discharged. As the remaining items of Work are satisfactorily completed or corrected, the Municipality shall approve, upon receipt of a requisition, for these remaining items less an amount necessary to satisfy any claims, liens or judgments against the Contractor, which have not been suitably discharged.
- 23.7 The final payment will not be issued until all the labor and material required by the Contract has been furnished and completed, all disputes relating to the performance of the Contract considered and disposed of and all accounts for extra work and materials and allowances for omissions have been rendered and considered.
- 23.8 The final payment will constitute the acceptance of the Work by the Municipality except as to Work thereafter found to be defective. The date of such certificate shall be regarded as the date of acceptance of the Work.
- 23.9 No payment will be made to a foreign Contractor until the Contractor furnishes satisfactory proof that he or she has paid all taxes required of foreign Contractors under the provisions of the Tax Law. A foreign Contractor as used in this paragraph shall mean a Contractor denominated "foreign" by the Tax Law.
- 23.10 Acceptance by the Contractor, or by anyone claiming by or through him or her, of the final payment shall constitute and operate as a release to the Municipality from any and all claims of any liability to the Contractor for anything theretofore done or furnished for or relating to or arising out of the work done thereunder, and for any prior act, neglect, or default on the part of the Municipality or any of its officers, agents, or employees unless the Contractor serves a detailed and verified statement of claim upon the Municipality not later than **forty (40) days** after the mailing of such final payment. Such statement shall specify the items and details upon which the claim will be based and any such claim shall be limited to such items. Should the Contractor refuse to accept the final payment as tendered by the Municipality, it shall constitute a waiver of any right to interest thereon.
- 23.11 The Contractor is advised that consistent with Subdivision 3-a, of Section 220 of the Labor Law, the filing of certified payroll records is a condition precedent to payment of any sums due and owing to any person performing work on this project. The failure to file pursuant to this section will result in a payment delay until the filing occurs.
- 23.12 The Contractor acknowledges that it shall not receive payment on any requests for payment unless the Contractor complies with the Municipality's electronic payment deposit procedures. Payments requested by the Contractor shall only be facilitated via electronic deposit, except where the Municipality has expressly authorized payment by paper check.

ARTICLE 24 – AUDITS AND RECORDS

- 24.1 The Contractor shall maintain on the Site the original certified payrolls or certified transcripts thereof, subscribed and affirmed by the Contractor and all Subcontractors as true under the penalties of perjury, showing the hours and days worked by each worker, laborer or mechanic, the occupation at which he or she worked, the hourly wage rate paid and the supplements paid or provided. The Contractor shall maintain with the payrolls or transcripts thereof, the statements signed by each worker pursuant to Article 25 of the General Conditions.
- 24.2 The Municipality shall have the right to examine all books, records, documents, and other data of the Contractor, any Subcontractor, materialmen or suppliers relating to the bidding, pricing or performance of this Contract or any change or modification thereto for the purpose of evaluating the accuracy, completeness, and currency of the cost or pricing data submitted. This right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted along with the computations and projections used therein.
- 24.3 The above materials shall be made available at the office of the Contractor, Subcontractors, materialmen or suppliers at all reasonable times for inspection, audit or reproduction until the expiration of six (6) years from the date of the final certificate for the Contract.
- 24.4 If this Contract is completely or partially terminated, the records relating to the Work terminated shall be made available for a period of **six (6) years** from the date of any resulting final settlement.
- 24.5 Records that relate to the Disputes Clause of this Contract or litigation or the settlement of claims arising out of the performance of this Contract shall be made available until the disposal of such appeals, litigation or claims.
- 24.6 The Contractor shall insert a clause containing all of the provisions of **Article 24** in all subcontracts or purchase orders issued hereunder.
- 24.7 The Contractor shall make available to the Municipality, upon written request, all records required to be kept by Article 3-A of the Lien Law. The failure to provide said records upon the receipt of the written request shall bar any recovery for claimed extra or additional costs under this Contract.

ARTICLE 25 – LABOR LAW AND PREVAILING WAGES NOTIFICATIONS PROVISIONS

- 25.1 In addition to any other provisions of this Contract in relation to prevailing wage rates, the Contractor shall be responsible for notifications mandated by law, rule or regulation.
- 25.2 The Contractor shall post, in a location designated by the Municipality, a copy of the New York State Department of Labor schedules of prevailing wages and supplements for this Project, a copy of all re-determinations of such schedules for the Project, all other notices required by law to be posted at the Site, the Department of Labor notice that this Project is a public work project on which each worker is entitled to receive the prevailing wages and supplements for the occupation at which he or she is working, and all other notices which

the Municipality directs the Contractor to post. The Contractor shall provide a surface for such notices, which is satisfactory to the Municipality. The Contractor shall maintain such notices in a legible manner and shall replace any notice or schedule that is damaged, defaced, illegible or removed for any reason. The Contractor shall post such notices before commencing any Work on the Site and shall maintain such notices until all Work on the Site is complete.

- 25.3 The Contractor shall distribute to each worker for this Contract a notice, in a form provided by the Municipality, that this project is a public work project on which each worker is entitled to receive the prevailing wage and supplements for the occupation at which he or she is working. Worker includes employees of Contractor and all Subcontractors and all employees of suppliers entering the Site. Such notice shall be distributed to each worker in accordance with Labor Law 220 3-a.
- 25.4 In addition to the requirements of **Appendix A**, the Contractor is responsible for any additional costs related to new determinations of the wage rates. The annual determination of the prevailing rates of wages and supplements are usually published on May 31st of each year and are in effect July 1st through June 30th. New determinations shall supersede the original schedule or any prior issued annual determination. Any rate change from a previously issued determination becomes effective July 1st, regardless of whether the new determination has been received by the Contractor.
- 25.5 If this Agreement and all other agreements for this project exceed \$250,000.00, all workers must complete a ten-hour or more OSHA-approved construction safety and health course.
- 25.6 No worker, in the employ of the Contractor, all Subcontractors or other person doing or contracting to do the whole or any part of the Work contemplated by the Contract shall be permitted or required to work more than **eight (8) hours** in any **one (1) calendar day** and more than **five (5) days** in any **one week**, except in the extraordinary emergencies set forth in the Labor Law.
- 25.7 Pursuant to Labor Law, Section 220-e, the Contractor specifically agrees:
 - a. That in the hiring of employees for the performance of Work under the Contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, but limited to operation performed within the territorial limits of the State of New York, no Contractor, Subcontractor, nor any person acting on behalf of such Contractor or Subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the Work to which the employment relates.
 - b. That no Contractor, Subcontractor, nor any person on behalf of such Contractor or Subcontractor shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under the Contract on account of race, creed, color, disability, sex or national origin.

ARTICLE 26 - STATUTORY REQUIREMENTS FOR RESTRICTIONS ON CONTACTS DURING THE PROCUREMENT PROCESS AND DISCLOSURE OF CONTACTS AND RESPONSIBILITY OF OFFERERS MISCELLANEOUS PROVISIONS

- 26.1 New York State Finance Law §139-k requires that every procurement contract award subject to the provisions of State Finance Law §139-k or §139-j shall contain a certification by the Offerer that all information provided to the procuring governmental agency with respect to State Finance Law §139-k is complete, true and accurate. The Contractor shall provide that certification in his or her contract or agreement.
- 26.2 New York State Finance Law
 - 26.2.1 New York State Finance Law § 139-k(2) requires the Municipality to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law § 163 (9). In accordance with State Finance Law § 139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous **four (4) years** by any Governmental Entity due to: (a) a violation of State Finance Law § 139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity.
 - 26.2.2 As part of its responsibility determination, State Finance Law § 139-k(3) mandates consideration of whether an Offerer fails to timely disclose or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of a procurement contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of performing the required Work within the necessary timeframe. The required forms to be completed by the Offerer must be submitted to the Municipality.

ARTICLE 27 – NO ASSIGNMENT

27.1 In accordance with the provisions of Section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this Agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Municipality.

ARTICLE 28 – MISCELLANEOUS PROVISIONS

28.1 Commencement of Actions: The time, as prescribed by law, within which an action on the contract against the Contractor must be commenced shall be computed from the date of completion of physical work. The Contractor shall notify the Municipality in writing

that the physical work of the contract has been completed by specifying a completion date, which date shall be no more than **thirty (30) days** prior to the date of such notice. The completion date set forth in such notice shall be deemed the date of completion of the physical work unless the Municipality, within **thirty (30) days** of receipt of such notice, notifies the Contractor of a dispute in writing. Any notice pursuant to this paragraph shall be sent by the Contractor by Certified Mail and sent to the parties set forth in the Notice provision of this Article.

- 28.1.1 In the event that the Contractor fails to provide notice as set forth herein or the Municipality disputes the completion date in the manner provided for herein, the date of completion of the physical work shall be determined in any other manner provided by law.
- 28.1.2 Choice of Law/Damages: This Contract shall be governed and interpreted in accordance with the laws of the State of New York. Any and all claims against the State, the Municipality, the Municipal Representative, employees, officers or agents arising out of this Contract shall be limited to money damages and commenced exclusively in, and subject to the jurisdiction of the New York State Court of Claims or any other court of competent jurisdiction located in Albany County, New York. Any such claim shall not be removed to federal court.
- 28.2 Notice
 - (a) Unless otherwise indicated in these General Conditions, all notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - i. via certified or registered United States mail, return receipt requested;
 - ii. by facsimile transmission;
 - iii. by personal delivery;
 - iv. by expedited delivery service; or
 - v. by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

If to the Municipality:

THE TOWN OF LEWIS 8574 US RTE 9 LEWIS, NY 12950 Phone: (518) 873-6777 Fax: (518) 873-2372 E-Mail Address: townhall@lewisny.com

- (b) Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- (c) The parties may, from time to time, specify any new or different address in the

United States as their address for purpose of receiving notice under this Contract by giving **fifteen (15) days** written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Contract. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

- 28.3 Severability: If any provision, term or condition of this contract is held to be invalid, illegal, or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Contract and the remaining parts of this Contract shall be enforced as if the invalid, illegal or unenforceable provisions, terms or conditions are not contained herein.
- 28.4 Integration Clause: This Contract shall not be materially amended, changed or otherwise modified except in writing signed by both parties. Except to the extent that documents are incorporated herein by reference, this Contract constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection therewith. No covenant, representation or condition not expressed herein shall be effective to interpret, change or restrict the express provisions of this Contract.
- 28.5 Signage: All construction sites must include a sign including all of the items required by applicable law, rule or regulation. All construction signs must also include the name of the project, the name of the Municipality, and a phone number for the public to call to obtain information about the project. This phone number will be maintained by the Municipality.

APPENDICES

- 29.1 The following appendices are attached hereto and hereby made a part of this agreement as if set forth fully herein:
 - (a) Appendix A Supplementary Terms & Conditions;
 - (b) Appendix B Iran Divestment Certification;
 - (c) Appendix C Vendor Responsibility Questionnaire;
 - (d) Appendix D Construction Plans & Specifications;
 - (e) Appendix E Contractors Payment Application Form;
 - (f) Appendix F Funding Agency Requirements;
 - (g) Appendix G Project Federal and/or Prevailing Wage Rate Schedule;

APPENDIX A

APPENDIX A.

Additional Terms and Conditions to Agreement Between

The TOWN OF LEWIS ("Owner") and TBA ("Contractor")

The parties hereto agree that the terms and conditions of this **APPENDIX** A shall supersede and control over any and all terms and conditions listed in the order of precedence at **Article 1.1** at page 2.

- 1. No application for payment shall be deemed complete or approved by Owner, and no progress payment shall be due from Owner, unless Contractor shall have submitted properly executed Public Improvement Lien Releases and Waivers, in a form satisfactory to Owner, signed by all persons who could claim public improvement lien rights on the project in connection with the work, and acknowledging payment of all work, materials and equipment supplied to the project up to and including the last day covered by the application for payment. Lien releases and Waivers from each individual subcontractor and material supplier must be presented prior to the progress payment being made. Owner reserves the right to request further substantiation from Contractor of such payments, including substantiation that all required payments have been made to fringe benefit trust funds for the benefit of employees of employees of Contractor or subcontractors who have provided services to the project in connection with the work, however, Owner's failure to require such shall not be deemed a waiver or diminution of Owner's rights.
- 2. The application for final payment shall not be deemed completed or approved by Owner, and no payment shall be due from Owner until Contractor shall have submitted the following properly executed documents:
 - (1) A General Release from Contractor in favor of Owner;
 - (2) A Final Release and Waiver of any public improvement lien rights of Contractor;
 - (3) A sworn statement by Contractor, and a form satisfactory to Owner, indicating that all subcontractors, materials suppliers, and fringe benefit trust funds for employees of Contractor and subcontractors on the project encompassed by the work, as well as all workers and persons employed in connection herewith, have been paid in full for all labor and work and materials furnished;
 - (4) An Indemnity Agreement whereby Contractor shall defend and indemnify Owner from any and all claims of every and any kind in nature by third parties, including but not limited to materials suppliers, subcontractors, and employees and workers employed in this project; and
 - (5) Final Lien Releases and Waivers from each individual materials supplier and subcontractor.
- 3. Neither final payment or any remaining retained percentage shall become due until Contractor submits to Owner:
 - (1) Affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the work for which Owner or Owner's property might be responsible or encumbered (less amounts held by Owner) have been paid or otherwise satisfied;
 - (2) A certificate evidencing that insurance required by the contract is to remain in full force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to Owner;
 - (3) A written statement that Contractor knows of no substantial reason that the insurance will not be renewed to cover the period required by the contract;
 - (4) Consent of surety, if any, to final payment; and
 - (5) If required by Owner, other data establishing payment or satisfaction of obligations such as receipts, releases and waivers of liens, claims, security interests or encumbrance arising out of the contract, to the extent and in such form as may be designated by Owner.

4. CLAIMS AND DISPUTES

4.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a

matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim. The written notice of claim must be accompanied by full documentation and proof to substantiate the claim.

4.2 Decision of Owner, its Engineer or Construction Manager. Claims shall

be referred initially to Owner, or its Engineer or Construction Manager for action as provided below. A decision by Owner or its Engineer or Construction Manager, shall be required as a condition precedent to litigation of a Claim between Owner and Contractor as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to the execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by Owner or Construction Manager in response to a Claim shall not be a condition precedent to arbitration or litigation in the event (1) the position of Owner or Construction Manager is vacant, (2) Owner or Construction Manager has not received evidence or has failed to render a decision within agreed time limits, (3) Owner or its Engineer or Construction Manager has failed to take action required under Section 4.3 within fifteen (15) days after the Claim is made, (4) forty-five (45) days has passed after the Claim has been referred to Owner or its Engineer or Construction Manager or (5) the Claim relates to a mechanic's lien.

4.3 Time Limits on Claims. Claims by either party must be made within **fifteen (15) days** after occurrence of the even giving rise to such Claim or within **fifteen (15) days** after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.4 Continuing Contract Performance. Pending final resolution of a Claim, unless otherwise agreed in writing Contractor shall proceed diligently with performance of the Contract and Owner shall continue to make payments in accordance with the Contract Documents.

4.5 Waiver of Claims: Final Payment. The making of final payment shall constitute a waiver of Claims by Owner except those arising from:

- 1. Liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- 2. Failure of the Work to comply with the requirements of the Contract Documents; or
- 3. Terms of special warranties required by the Contract Documents.

4.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the

site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than **fifteen (15) days** after first observance of the conditions. Owner or its Engineer or Construction Manager will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If Owner or its Engineer or Construction Manager determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, Owner shall so notify Engineer and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within **fifteen (15) days** after Owner has given notice of the decision. If Owner and Contractor cannot agree on an adjustment in the Contract Time, the adjustment shall be referred to Owner or its Engineer or Construction Manager for initial determination.

4.7 Claim for Additional Cost. If Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. If

Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from Owner or its Engineer or Construction Manager, (2) an order by Owner to stop the Work where Contractor was not at fault, (3) a written order for a minor change in the Work issued by Owner or its Engineer or Construction Manager, (4) failure of payment by Owner, (5) termination of the contract by Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed and evaluated in accordance with the procedure established herein and under this Section (4) and Section (5) of these Supplementary Conditions.

5. **RESOLUTION OF CLAIMS AND DISPUTES**

5.1 Owner or Construction Manager will review Claims and take one or more of

the following preliminary actions within **fifteen (15) days** of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when Owner or Construction Manager expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. Owner or Construction Manager may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

5.2 If a Claim has been resolved, Owner or Construction Manager will prepare or obtain appropriate documentation.

5.3 If a Claim has not been resolved, the party making the Claim shall, within **ten (10) days** after Owner or Construction Manager's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by Owner or Construction Manager, (2) modify the initial Claim or (3) notify Owner or Construction Manager that the initial Claim stands.

5.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by Owner or Construction Manager, Owner or Construction Manager will notify the parties in writing that Owner or Construction Manager's decision will be made within **ten (10) days**, which decision shall be final and binding on the parties but subject to arbitration. Upon expiration of such time period, Owner or Construction Manager will render to the parties Owner or Construction Manager's written decision relative to the Claim, including any change in the Contract Sum or Construction Manager may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

The parties expressly agree that any and all controversies and claims arising out of this contract will not be referred to arbitration but will be referred and brought in a Court of competent jurisdiction within Owner, New York.

6. **DELAYS.** Owner shall not be liable to Contractor or any subcontractors

for claims or damages of any nature caused by or rising out of delays. The sole remedy against Owner for delays shall be the allowance of additional time for completion of the Work, the amount of which shall be subject to the claims procedure set forth herein. Except to the extent, if any, expressly prohibited by law, Contractor expressly agrees not to make and hereby waives any claim for damages for delay, including, but not limited to those resulting from increased labor or material costs, directions given or not given by Owner, including scheduling of the work, or an account of any delay, or on account of any delay, obstruction or hindrance for any cause whatsoever by Owner, or its agents or any other Contractor on the project, whether or not foreseeable or anticipated. CONTRACTOR AGREES THAT ITS SOLE RIGHT AND REMEDY THEREFORE SHALL BE AN EXTENSION OF TIME, IF APPROPRIATE. IT IS EMPHASIZED THAT NO MONETARY RECOVERY MAY BE OBTAINED BY CONTRACTOR FOR ANY DELAY AGAINST OWNER, CONSTRUCTION MANAGER, OR ITS ENGINEER OR CONSTRUCTION MANAGER BASED ON ANY REASON AND THAT CONTRACTOR'S SOLE REMEDY, IF APPROPRIATE, IS ADDITIONAL TIME.

7. Subcontractors and their subcontractors are required to defend, indemnify and hold harmless, to the full extent allowed by law, Owner, any Owner or Construction Manager from and against any and all claims, suits, causes of actions, judgments, etc. arising out of or in any way connected with the subcontractor's performance of the work as well as name Owner, Architect and Construction Manager, if any, as an additional insured on its policies of liability insurance. Subcontractors are to furnish to Owner a duly executed Release of Lien for each progress payment as well as the Final Release, Waiver and Discharge of Lien upon payment due under the subcontract from Contractor.

Contractor shall:

- (1) Comply with its obligation as a Trustee under New York Lien Law Article 3-a,
- (2) Upon receipt of each progress payment, and upon final payment, expend the funds received as required by said Article 3-a, and in particular number 71 thereof,
- (3) Upon request by Owner for proof of such compliance,
- (4) Defend, indemnify and hold harmless Owner from any claims, suits, demands or judgments arising out of any failure to so comply.

In addition to the insurance requirements set forth at **ARTICLE 21**, liability insurance shall include all major divisions of coverage and be on comprehensive basis including, but not limited to:

- (1) Premises operations (including X, C & U coverage as applicable),
- (2) Independent Contractors Protective,
- (3) Products and completed operations,
- (4) Personal injury liability with employment exclusion deleted,
- (5) Contractual, including specific provisions for Contractors obligation to indemnify and defend Owner,
- (6) Owned, non-owned and hired motor vehicles,
- (7) Broad formed property damage including completed operations.

8. **PERFORMANCE AND PAYMENT BONDS**

Contractor shall furnish to Owner, in duplicate, and keep enforced during the term of the Contract, Performance Bonds and Payment bonds guaranteeing that Contractor will perform its obligations under the contract and will pay for all labor and materials furnished for the work and the performance of the work. Such Bonds shall be issued on **Form A1A Document A312** and by a surety acceptable to Owner, shall name Owner as obligee and shall be in an amount equal to 100% of the contract sum. Contractor shall deliver the executed, approved bonds to Owner with its signed contract. The Bond shall be obtained from a surety licensed to business in the State of New York and listed in the latest issue of US Treasury Circular 570. The sufficiency of the bonds is subject to the approval of Owner, and Bonds which are deemed insufficient by Owner may be rejected. Bonds will remain in effect for one year after final completion of the project.

9. INSURANCE REQUIREMENTS (See also ARTICLE 21)

Contractor and each of its subcontractors shall provide Workers Compensation and Disability Insurance, Commercial General Liability Insurance, Commercial Automobile Insurance, Umbrella/Excess Liability Insurance, Special Protective and Highway Liability Insurance, Contractor's Risk and all other required insurance shall be pursuant to those requirements set forth in the New York State Department of Transportation Standard Specifications (USC) dated May 1, 2016, more particularly at pages 140-146.

In addition to the above, the insurance shall list the Owner as an additional insured on a primary and noncontributory basis and certificate holder. All policies will also contain no exclusions with respect to Section 240 and 241 of the NYS Labor Law, Contract and subcontractors waive all rights of subrogation against Owner and will have the General Liability, Umbrella Liability and Workers Compensation Policies endorsed setting forth this waiver of subornation. Contractor agrees to indemnify Owner from all applicable deductibles.

10. COMPLIANCE WITH ADDITIONAL MUNICIPAL, STATE OR FEDERAL REQUIREMENTS AND FUNDING REQUIREMENTS

Contractor agrees to comply with any and all rules, regulations, procedures, laws, statutes and requirements required of any funding agency funding any portion of this project, as well as any municipal, state or federal agency having jurisdiction or control of this project. It shall be the responsibility of both Owner and the Contractor to make themselves aware of these requirements prior to beginning work.

It is recognized that this project is funded by **Dormitory Authority of the State of New York (DASNY) grant** and

Contractor agrees to comply with any and all terms, conditions and requirements of the grant and Contractor acknowledges that is permitting the same.

11. **DEFENSE & INDEMNIFICATION**

The Contractor shall defend, indemnify and hold harmless the Owner to the fullest extent allowed by law, and notwithstanding any insurance requirements, from and against any and all liability, losses, claims, actions, demands, damages, expenses, suits, judgments, orders, causes of action and claims, including but not limited to attorney's fees, legal costs, and all other costs of defense, by reason of any liability whatsoever imposed by law or otherwise upon the Owner for damages to person, property or of any other kind in nature, including but not limited to those for bodily injury, property damage, death arising out of or in connection with its officers, employees, agents, contractors, sub-contractors, guests or invitees negligence or its/their performance or failure to perform this agreement.

12. OWNER'S RIGHT TO SET-OFF

The Owner shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Owner's option to withhold for the purposes of set-off any moneys due to the Contractor under this agreement up to any amounts due and owing to the Owner with regard to this contract, any other contract with any Owner department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the Owner for any other reason, including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Owner shall exercise its set-off rights in accordance with normal Owner practices, including, in cases of set-off pursuant to an audit, the acceptance of such audit by the Owner's Board or its designated representative.

APPENDIX B

Attachment "D" Certification Pursuant to Section 103-g Of the New York State General Municipal Law

- A. By submission of this bid/proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the New York State Finance Law.
- B. A Bid/Proposal shall not be considered for award, nor shall any award be made where the condition set forth in Paragraph A above has not been complied with; provided, however, that in any case the bidder/proposer cannot make the foregoing certification set forth in Paragraph A above, the bidder/proposer shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where Paragraph A above cannot be complied with, the Purchasing Unit to the political subdivision, public department, agency or official thereof to which the bid/proposal is made, or his designee, may award a bid/proposal, on a case by case business under the following circumstances:
 - 1. The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
 - 2. The political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

Signature Title Company Date

APPENDIX C

You have selected the For-Profit Construction questionnaire, commonly known as the "CCA-2," which may be printed and completed in this format or, for your convenience, may be completed online using the <u>New York State VendRep System</u>.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or official must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The <u>Vendor ID</u> is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a <u>Vendor ID</u>, contact the IT Service Desk at <u>ITServiceDesk@osc.state.ny.us</u> or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at <u>http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf</u>. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity, is not required. Individuals and <u>Sole Proprietors</u> may use a Social Security Number but are encouraged to obtain and use a federal <u>Employer Identification Number (EIN)</u>.

BUSINESS ENT	TTY INFORMATION				
Legal Business Name		EIN			
Address of the Pr	incipal Place of Business (street, city, state, zip co	ode)	New York State Vendor Identification Number		
			Telephone	Fax	
			ext.		
			Website		
Authorized Conta	ct for this Questionnaire				
Name		Telephone	Fax		
		ext.			
Title		Email			
Additional <u>Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years, the state or county where filed and the status (active or inactive).					
Туре	Name	EIN	State or County where filed		Status

I. BUSINESS CHARACTERISTICS				
1.0 <u>Business Entity</u> Type – Check appropriate box and provide additional information:				
a) <u>Corporation</u> (i	ncluding PC)	Date of Incorporation		
b) Limited Liability Company (LLC or PLLC)		Date Organized		
c) 🗌 Limited Liabili	ity Partnership	Date of Registration		
d) <u>Limited Partne</u>	ership	Date Established		
e) 🗌 <u>General Partnership</u>		Date EstablishedCounty (if formed in NYS)		
f) Sole Proprietor		How many years in business?		
g) 🗌 Other		Date Established		
If Other, explain:				
1.1 Was the <u>Business Entity</u> formed in New York State?			Yes No	
If "No," indicate jurisdiction where the Business Entity was formed:				
United States State				
Other Country				

I. BUSINESS CHARACTERISTICS				
1.2 Is the Legal Business Entity public	y traded?		Yes No	
If "Yes," provide the <u>CIK code</u> or Ticker Symbol:				
1.3 Is the <u>Business Entity</u> currently <u>registered to do business in New York State</u> ? Note: Select "Not Required" if the Business Entity is a Sole Proprietor or General Partnership			Yes No	
If "No," explain why the <u>Business Entity</u>	v is not required to be <u>registered to do</u>	business in New York State	:	
	Joint Venture? Note: If the submittin stionnaire for each <u>Business Entity</u> co		Yes No	
1.5 If the <u>Business Entity's Principal Pl</u> maintain an office in New York Sta (Select "N/A" if <u>Principal Place of</u>		State, does the <u>Business Entir</u>	$ ty \qquad \Box Yes \ \Box No \\ \Box N/A $	
If "Yes," provide the address and telepho	ne number for one office located in N	lew York State.		
	Business Enterprise, or New York State Small Business, or federally certified Disadvantaged Business			
If "Yes," check all that apply:				
	ity-Owned Business Enterprise (MBI			
	en-Owned Business Enterprise (WBE)		
New York State Small Business				
Federally certified <u>Disadvantage</u>				
 1.7 Identify each person or business entity that is, or has been within the past five (5) years, <u>Principal Owner</u> of 5.0% or more of the firm's shares; a Business Entity Official; or one of the five largest shareholders, if applicable. (<i>Attach additional pages if necessary.</i>) <u>Joint Ventures</u>: Provide information for all firms involved. 				
		Employment status with the firm		
			Current Former	

II. AFFILIATE and JOINT VENTURE RELATIONSHIPS					
2.0 Are there any other construction-related firms in which, now or in the past five years, the submitting Yes Business Entity or any of the individuals or business entities listed in question 1.7 either owned or owns No 5.0% or more of the shares of, or was or is one of the five largest shareholders or a director, officer, partner or proprietor of said other firm? (Attach additional pages if necessary.) Image: Construction of the share of th					
Firm/Company Name	Firm/Company EIN (If available)		Firm/Company's Primary Business Activity		
Firm/Company Address					
Explain relationship with the firm and indica	ate percent of ownershi	p, if applicable (enter N	I/A, if not applicable):		
Are there any shareholders, directors, officer has in common with this firm?	rs, owners, partners or j	proprietors that the sub-	nitting <u>Business Entity</u>	Yes No	
Individual's Name (Include middle initial)	Individual's Name (Include middle initial) Position/Title with Firm/Company				
2.1 Does the <u>Business Entity</u> have any <u>cor</u> 2.0 above? (Attach additional pages ij		ttes not identified in the	e response to question	Yes No	
Affiliate Name	Affiliate Name Affiliate EIN (If available)		Affiliate's Primary Business Activity		
Affiliate Address					
Explain relationship with the affiliate and indicate percent of ownership, if applicable (<i>enter N/A, if not applicable</i>):					
Are there any shareholders, directors, officers, owners, partners or proprietors that the submitting Business Entity Yes No has in common with this affiliate?					
Individual's Name (Include middle initial)		Position/Title with Firm/Company			
2.2 Has the <u>Business Entity</u> participated in years? (<i>Attach additional pages if nece</i>		ed Joint Ventures withi	n the past three (3)	Yes No	
Joint Venture Name	Joint Venture EIN (If available) Identify parties to the Jo		oint Venture		

III. CONTRACT HISTORY			
3.0 Has the <u>Business Entity</u> completed any <u>construction</u> contracts?	Yes No		
If "Yes," list the ten most recent <u>construction</u> contracts the <u>Business Entity</u> has completed using Attachment A – Completed Construction Contracts, found at <u>www.osc.state.ny.us/vendrep/documents/questionnaire/ac3294s.doc</u> . If less than ten, include most recent subcontracts on projects up to that number.			
3.1 Does the <u>Business Entity</u> currently have uncompleted <u>construction</u> contracts?	∏Yes ∏No		
If "Yes," list all current uncompleted <u>construction</u> contracts by using Attachment B – Uncompleted Construction Contracts, found at <u>www.osc.state.ny.us/vendrep/documents/questionnaire/ac3295s.doc</u> . Note: Ongoing projects must be included.			
IV. INTEGRITY – CONTRACT BIDDING Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:			
4.0 Been <u>suspended</u> or <u>debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement?	Yes No		
4.1 Been subject to a denial or revocation of a government prequalification?	Yes No		
4.2 Had any bid rejected by a <u>government entity</u> for lack of qualifications, responsibility or because of the submission of an informal, non-responsive or incomplete bid?	Yes No		
4.3 Had a proposed subcontract rejected by a <u>government entity</u> for lack of qualifications, responsibility or because of the submission of an informal, non-responsive or incomplete bid?	Yes No		
4.4 Had a low bid rejected on a <u>government contract</u> for failure to make <u>good faith efforts</u> on any <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or <u>Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	Yes No		
4.5 Agreed to a voluntary exclusion from bidding/contracting with a government entity?	Yes No		

4.6 Initiated a request to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity?

For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitting <u>Business</u> <u>Entity</u>, the <u>government entity</u> involved, project(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.

V. INTEGRITY – CONTRACT AWARD Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:			
5.0	Defaulted on or been suspended, cancelled or terminated for cause on any contract?	Yes No	
5.1	Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution (except any disputed work proceeding) in connection with any <u>government contract</u> ?	Yes No	
5.2	Entered into a formal monitoring agreement, consent decree or stipulation settlement as specified by, or agreed to with, any government entity?	Yes No	
5.3	Had its surety called upon to complete any contract whether government or private sector?	Yes No	
5.4	Forfeited all or part of a standby letter of credit in connection with any government contract?	Yes No	

V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:

For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitting <u>Business</u> <u>Entity</u>, the <u>government entity</u>/owners involved, project(s), contract number(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:			
6.0	Had a revocation or suspension of any business or professional permit and/or license?	Yes No	
6.1	Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned</u> <u>Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or a federal certification of <u>Disadvantaged</u> <u>Business Enterprise</u> status, for other than a change of ownership?	Yes No	

For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitting <u>Business</u> <u>Entity</u>, the <u>government entity</u> involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.

	VII. LEGAL PROCEEDINGS/GOVERNMENT INVESTIGATIONS Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:			
7.0	Been the subject of a criminal <u>investigation</u> , whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or <u>federal</u> law?	Yes No		
7.1	Been the subject of: (i) An indictment operator of immunity, indement or conviction (including entering into a place hereoin)	□Yes □No		
	 (i.) An indictment, grant of immunity, judgment or conviction (including entering into a plea bargain) for conduct constituting a crime; or 			
	(ii.) Any criminal <u>investigation</u> , felony indictment or conviction concerning the formation of, or any business association with, an allegedly false or fraudulent <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> , or a <u>Disadvantaged Business Enterprise</u> ?	🗌 Yes 🗌 No		
7.2	Received any OSHA citation, which resulted in a final determination classified as serious or willful?	Yes No		
7.3	7.3 Had a government entity find a willful prevailing wage or supplemental payment violation?			
7.4 Had a New York State Labor Law violation deemed willful?		Yes No		
7.5 Entered into a consent order with the New York State Department of Environmental Conservation, or a <u>federal</u> , state or local government enforcement determination involving a violation of <u>federal</u> , state or local environmental laws?		Yes No		

VII. LEGAL PROCEEDINGS/GOVERNMENT INVESTIGATIONS Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:					
7.6 Other than previously disclosed, been the subject of any <u>citations</u>, notices or violation orders; a pending administrative hearing, proceeding or determination of a violation of:	Yes No				
 <u>Federal</u>, state or local health laws, rules or regulations; <u>Federal</u>, state or local environmental laws, rules or regulations; 					
 Unemployment insurance or workers compensation coverage or <u>claim</u> requirements; Any labor law or regulation, which was deemed willful; 					
 Employee Retirement Income Security Act (ERISA); <u>Federal</u>, state or local human rights laws; 					
• <u>Federal</u> , state or local security laws?					
For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitted <u>Entity</u> , the <u>government entity</u> involved, relevant dates, any remedial or corrective action(s) taken and the current step Provide answer(s) below or attach additional sheets with numbered responses.					

Note: Information regarding a determination or finding made in error, which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity, is not required.

VIII. LEADERSHIP INTEGRITY

answer(s) below or attach additional sheets with numbered responses.

If the Business Entity is a Joint Venture Entity, answer "N/A - Not Applicable" to questions in this section.

Within the past five (5) years has any individual previously identified or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the Business Entity with any government entity been:

8.0	Sanctioned relative to any business or professional permit and/or license?	Yes No					
		N/A					
8.1	Suspended, debarred or disqualified from any government contracting process?	Yes No					
		N/A					
8.2	The subject of a criminal investigation, whether open or closed, or an indictment for any business-related	Yes No					
	conduct constituting a crime under local, state or <u>federal</u> law?	N/A					
8.3	Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a	Yes No					
	judgment for:	N/A					
	(i.) Any business-related activity, including but not limited to fraud, coercion, extortion, bribe or bribe- receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price fixing or collusive bidding; or						
	wire fraud, price-fixing or collusive bidding; or						
	 (ii.) Any crime, whether or not business-related, the underlying conduct of which related to truthfulness, including but not limited to the filing of false documents or false sworn statements, perjury or larceny 						
	For each "Yes," provide an explanation of the issue(s), the individual involved, the relationship to the submitting <u>Business Entity</u> , the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide						

IX. FINANCIAL AND ORGANIZATIONAL CAPACITY							
9.0 Within the past five (5) years, has the <u>performance assessment(s)</u> from any <u>g</u>			ormal unsatisfactory	Yes No			
government entity involved, relevant dates, a	If "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.						
9.1 Within the past five (5) years, has the pover \$25,000?	Business Entity or any	<u>affiliate</u> had an <u>y liquid</u>	ated damages assessed	Yes No			
relevant dates, the contracting party involve	If "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitting <u>Business Entity</u> , relevant dates, the contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.						
over \$25,000 filed against the Busines	9.2 Within the past five (5) years, has the <u>Business Entity</u> or any <u>affiliate</u> had any <u>liens</u> , <u>claims</u> or <u>judgments</u> over \$25,000 filed against the <u>Business Entity</u> which remain undischarged or were unsatisfied for more than 90 days? (<i>Note: Including but not limited to tax warrants or liens. Do not include UCC filings.</i>)						
If "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> involved, the relationship to the submitting <u>Business Entity</u> , relevant dates, the Lien holder or Claimants' name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.							
9.3 In the last seven (7) years, has the <u>Bus</u> bankruptcy proceedings, whether or no				Yes No			
If "Yes," provide the <u>Business Entity</u> involve court name and the docket number. Indicate answer below or attach additional sheets with	e the current status of the	he proceedings as "Ini					
9.4 What is the <u>Business Entity's</u> Bonding	Capacity?						
a. Single Project		b. Aggregate (All Pro	Aggregate (All Projects)				
9.5 List <u>Business Entity's</u> Gross Sales for Fiscal Years:	the previous three (3)						
1st Year (Indicate year)	2nd Year (Indicate y	ear)	3rd Year (Indicate year	·)			
Gross Sales	Gross Sales		Gross Sales				
9.6 List <u>Business Entity's</u> Average Backlo (Estimated total value of uncompleted	•	•					
1st Year (Indicate year)	2nd Year (Indicate y	ear)	3rd Year (Indicate year	·)			
Amount	Amount		Amount				
9.7 Attach <u>Business Entity's</u> most recent a Information, found at <u>www.osc.state.n</u> (<i>This information must be attached.</i>)				ment C – Financial			

X.F	REEDOM OF INFORMATION LAW (FOIL)	
10.0	Indicate whether any information provided herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).	Yes No
	Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL. Attach additional pages if necessary.	
If "Y	es," indicate the question number(s) and explain the basis for the claim.	

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official				
Printed Name of Signatory				
Title				
Name of Business				
Address				
City, State, Zip				
Sworn to before me this	day of		; 20;	
		Notary Public		

ATTACHMENT A – COMPLETED CONSTRUCTION CONTRACTS

Vendor Name:

Ques	tion 3.0: List the ten most number:	t recent construction co	ontracts the Business Enti	ty has completed. If les	s than ten, include m	ost recent subcontra	icts of	n projects up to that
1.	Agency/Owner				Award Date	Amount		Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		
	Contract No.	Prime or Sub	Joint Venture (JV)	Name, if applicable			EIN	N of JV, if applicable
2.	Agency/Owner			Award Date Amount				Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		
	Contract No.	Prime or Sub	Joint Venture (JV)	Joint Venture (JV) Name, if applicable				N of JV, if applicable
3.	Agency/Owner				Award Date Amount			Date Completed
	Contact Person		Telephone No.	Designer Architect a	t and /or Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (JV)	Name, if applicable			EIN	N of JV, if applicable
4.	Agency/Owner		i		Award Date	Amount		Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		
	Contract No.	Prime or Sub	Joint Venture (JV)	Name, if applicable			EIN	N of JV, if applicable
5.	Agency/Owner				Award Date	Amount		Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		·
	Contract No.	Prime or Sub	Joint Venture (JV)	Name, if applicable			EIN	N of JV, if applicable

ATTACHMENT A – COMPLETED CONSTRUCTION CONTRACTS

Vendor Name:

Ques	tion 3.0: List the ten mos number:	st recent construction co	ontracts the Business Entit	ty has completed. If less	s than ten, include m	ost recent subcont	tracts of	n projects up to that
6.	Agency/Owner				Award Date	Amount		Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		
	Contract No.	Prime or Sub	Joint Venture (JV)	Name, if applicable			EI	N of JV, if applicable
7.	Agency/Owner			Award Date Amount				Date Completed
	Contact Person		Telephone No.	nd /or Design Engine	er			
	Contract No.	Prime or Sub	Joint Venture (JV)	Joint Venture (JV) Name, if applicable				
8.	Agency/Owner				Award Date	Amount	Date Completed	
	Contact Person		Telephone No.	Designer Architect a	et and /or Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (JV) I	Name, if applicable			EI	N of JV, if applicable
9.	Agency/Owner				Award Date	Amount		Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		
	Contract No.	Prime or Sub	Joint Venture (JV)	Name, if applicable			EI	N of JV, if applicable
10.	Agency/Owner		- ·		Award Date	Amount	•	Date Completed
	Contact Person		Telephone No.	Designer Architect a	nd /or Design Engine	er		
	Contract No.	Prime or Sub	Joint Venture (JV) I	Name, if applicable			EI	N of JV, if applicable

ATTACHMENT B – UNCOMPLETED CONSTRUCTION CONTRACTS

Vendor Name:

Ques	tion 3.1: List all current u	ncompleted construction co	ontracts:						
1.	Agency/Owner						Award Date		Completion Date
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	JV) Name	e, if applicable			El	IN of JV, if applicable
			1	Total C	Contract Amount	Amount Sublet to oth	ers	Uncomp	bleted Amount
2.	Agency/Owner					I	Award Date	1	Completion Date
	Contact Person		Telephone No.		Designer Architect and /or 1	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	Joint Venture (JV) Name, if applicable					IN of JV, if applicable
			Total Contract Amount Amount Sublet to others					Uncomp	pleted Amount
3.	Agency/Owner						Award Date	1	Completion Date
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	JV) Name	e, if applicable			El	IN of JV, if applicable
				Total C	Contract Amount	Amount Sublet to oth	ers	Uncomp	bleted Amount
4.	Agency/Owner						Award Date	1	Completion Date
	Contact Person		Telephone No.		Designer Architect and /or 1	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	JV) Name	e, if applicable			El	IN of JV, if applicable
				Total C	Contract Amount	Amount Sublet to oth	ers	Uncomp	bleted Amount

ATTACHMENT B – UNCOMPLETED CONSTRUCTION CONTRACTS

Vendor Name:

Ques	tion 3.1: List all current u	ncompleted construction co	ontracts:						
5.	Agency/Owner						Award Date		Completion Date
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	IV) Name	e, if applicable			El	IN of JV, if applicable
		1	1	Total C	Contract Amount	Amount Sublet to othe	ers	Uncomp	bleted Amount
6.	Agency/Owner			I		L	Award Date		Completion Date
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	IV) Name		El	IN of JV, if applicable		
		1	Total Contract Amount Amount Sublet to others					Uncomp	bleted Amount
7.	Agency/Owner			1			Award Date	1	Completion Date
	Contact Person		Telephone No.		Designer Architect and /or l	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	IV) Name	e, if applicable			El	IN of JV, if applicable
			1	Total C	Contract Amount	Amount Sublet to othe	ers	Uncomp	bleted Amount
8.	Agency/Owner			I			Award Date	1	Completion Date
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (J	IV) Name	e, if applicable			El	IN of JV, if applicable
				Total C	Contract Amount	Amount Sublet to othe	ers	Uncomp	bleted Amount

ATTACHMENT B – UNCOMPLETED CONSTRUCTION CONTRACTS

Vendor Name:

Quest	estion 3.1: List all current uncompleted construction contracts:										
9.	Agency/Owner						Award Date		Completion Date		
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer					
	Contract No. Prime or Sub Joint Venture (JV) Name, if applicable							EI	N of JV, if applicable		
			Total Contract Amount Amount Sublet to others Une						leted Amount		
10.	Agency/Owner						Award Date		Completion Date		
	Contact Person		Telephone No.		Designer Architect and /or I	Design Engineer					
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable					EI	N of JV, if applicable		
				Total C	Contract Amount	Amount Sublet to oth	ers	Uncomp	leted Amount		
-	Contact Person	Prime or Sub			e, if applicable				N of JV		

Grand Total All Uncompleted Contract	s \$0.00
--------------------------------------	----------

	D:				
		As of Da	ite:		
	ASSETS				
Current Assets					
1. Cash			\$	-	
2. Accounts receivable - less allowance for doubtful accounts	\$	-	-		
Retainers included in accounts receivable	\$	-			
Claims included in accounts receivable not yet approved or in litigation	\$	-			
Total Accounts Receivable			\$	-	
3. Notes receivable - due within one year			\$	-	
4. Inventory - materials			\$	-	
5. Contract costs in excess of billings on uncompleted contracts			\$	-	
6. Accrued income receivable					
Interest	\$	-			
Other (list)	\$	-			
	\$	-			
Total Accrued Income Receivable			\$	-	
7. Deposits					
Bid and Plan	\$	-			
Other (list)	\$	-			
	\$	-			
Total Deposits			\$	-	
8. Prepaid Expenses					
Income Taxes	\$	-			
Insurance	\$	-			
Other (list)	\$	-			
	\$	-			
Total Prepaid Expenses			\$	-	
9. Other Current Assets					
Other (list)	\$	-			
	\$	-			
Total Other Current Assets			\$	-	
10. Total Current Assets					\$ -
11. Investments					
Listed securities-present market value	\$	-			
Unlisted securities-present value	\$	-			
Total Investments					\$ -

	NYS Vendor ID:		
12. Fixed Assets			
Land	\$ -		
Building and improvements	\$ -		
Leasehold improvements	\$ -		
Machinery and equipment	\$ -		
Automotive equipment	\$ -		
Office furniture and fixtures	\$ -		
Other (list)	\$ -		
	\$ -		
Total	 \$	-	
Less: Accumulated depreciation	\$	-	
Total Fixed Assets - Net		\$	-
13. Other Assets			
Loans receivable			
Officers	\$ -		
Employees	\$ -		
Shareholders	\$ -		
Cash surrender value of officers' life insurance	\$ -		
Organization expense - net of amortization	\$ -		
Notes receivable - due after one year	\$ -		
Other (list)	\$ -		
	\$ -		
Total Other Assets		\$	-
14. TOTAL ASSETS		\$	-

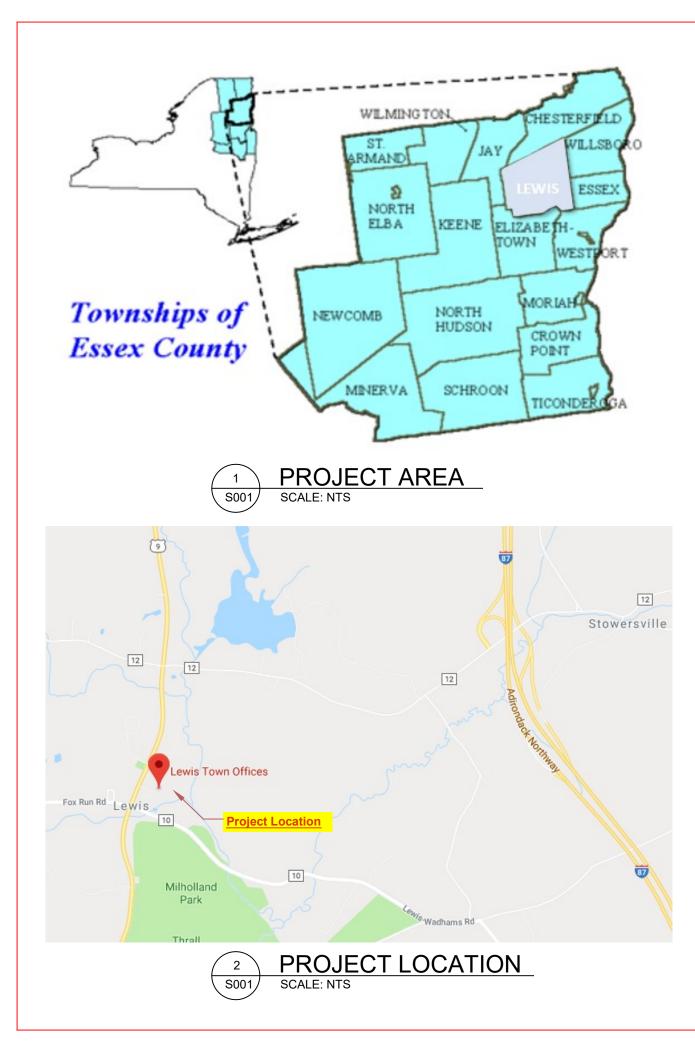
NYS Vendor ID:

LIABILITIES

Current Liabilities			
15. Accounts payable		\$	-
16 a. Loans from shareholders - due within one year		\$	-
16 b. Other Loans - due within one year		\$	-
17. Notes payable - due within one year		\$	-
18. Mortgage payable - due within one year		\$	-
19. Other payables - due within one year			
Other (list)	\$ -		
	\$ -	_	
Total Other Payables - due within one year		\$	-
20. Billings in excess of costs and estimated earnings		\$	-
21. Accrued expenses payable			
Salaries and wages	\$ -	_	
Payroll taxes	\$ -		
Employees' benefits	\$ -		
Insurance	\$ -	_	
Other	\$ -		
Total Accrued Expenses Payable		\$	-
22. Dividends payable		\$	-
23. Income taxes payable			
State	\$ -	_	
Federal	\$ -	_	
Other	\$ -		
Total Income Taxes Payable		\$	-
24. Total current liabilities		\$	-
25. Deferred income taxes payable			
State	\$ -	_	
Federal	\$ -	_	
Other	\$ -	-	
Total Deferred Income Taxes		\$	-
26. Long Term Liabilities			
Loans from shareholders - due after one year	\$ -	_	
Other Loans - due within one year		-	
Principle	\$ -	_	
Interest	\$ -	_	
Notes payable - due after one year	\$ -	_	
Mortgage - due after one year	\$ -	-	
Other payables - due after one year	\$ -	_	
Other (list)	\$ -	-	
	\$ -	-	
Total Long Term Liabilities		\$	-

	Ν	YS Vendor ID:		
27. Other Liabilities				
Other (list)	\$	-		
	\$	-		
Total Other Liabilities		\$	-	
28. TOTAL LIABILITIES			\$	-
	NET WORTH			
29. Net Worth (if proprietorship or partnership)			\$	-
30. Stockholders' Equity				
Common stock issued and outstanding	\$	-		
Preferred stock issued and outstanding	\$	-		
Retained earnings	\$	-		
Total	\$	-		
Less: Treasury stock	\$	-		
31. TOTAL STOCKHOLDERS' EQUITY			\$	-
32. TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY			\$	-

APPENDIX D



TOWN OF LEWIS SALT STORAGE SHED ESSEX COUNTY, NY PROJECT #: P-0025-2017 (CONTRACT: FOUNDATION)

CONCRETE NOTES:

SEE SPECIFICATIONS FOR CAST IN PLACE CONCRETE FOR MATERIALS AND METHODS OF CONSTRUCTION.

THE CONTRACTOR SHALL SUBMIT COPIES OF SHOP DRAWINGS TO THE TOWN FOR REVIEW FOR CONCRETE MIX DESIGN AND STEEL REINFORCEMENT PLACEMENT DRAWINGS INCLUDING BAR LENGTHS. BENDS AND SPLICES IN ACCORDANCE WITH specifications.

MEASURE, MIX, BATCH AND DELIVER CONCRETE IN ACCORDANCE WITH ASTM C94.

WHEN AIR temperature IS BELOW 40 DEGREES F, OR IS EXPECTED TO FALL BELOW 40 DEGREES F, CONCRETE SHALL BE PLACED AND CURED IN ACCORDANCE WITH THE REQUIREMENTS OF ACI 306 (COLD WEATHER CONCRETE), AND THE SPECIFICATIONS.

ALL CONCRETE WORK SHALL COMPLY WITH THE PROVISIONS OF ACI 301. (SPECIFICATIONS FOR STRUCTURAL CONCRETE).

ALL CONCRETE SHALL BE PLACED IN ACCORDANCE WITH ACI 304 (GUIDE FOR MEASURING, MIXING, TRANSPORTING AND PLACING CONCRETE). consolidate PLACED CONCRETE BY MECHANICAL VIBRATION

EARTHWORK NOTES:

SUBGRADE SHALL BE prepared BY THE TOWN, INCLUDING EXCAVATION TO GRADE AND COMPACTION.

SUBBASE SHALL BE prepared BY THE TOWN INCLUDING COMPACTION

FINE GRADE OF SUBBASE AND COMPACTION TO BE PROVIDED BY THE CONTRACTOR.

ALL CONTROLLED FILL WITHIN THE FOUNDATION FOOTPRINT SHALL BE PLACED IN 8" LIFTS AND COMPACTED TO A minimum OF 95% OF MODIFIED PROCTOR DENSITY PER ASTM D-1557.

BACKFILL MATERIALS SHALL BE PROVIDED BY THE TOWN.



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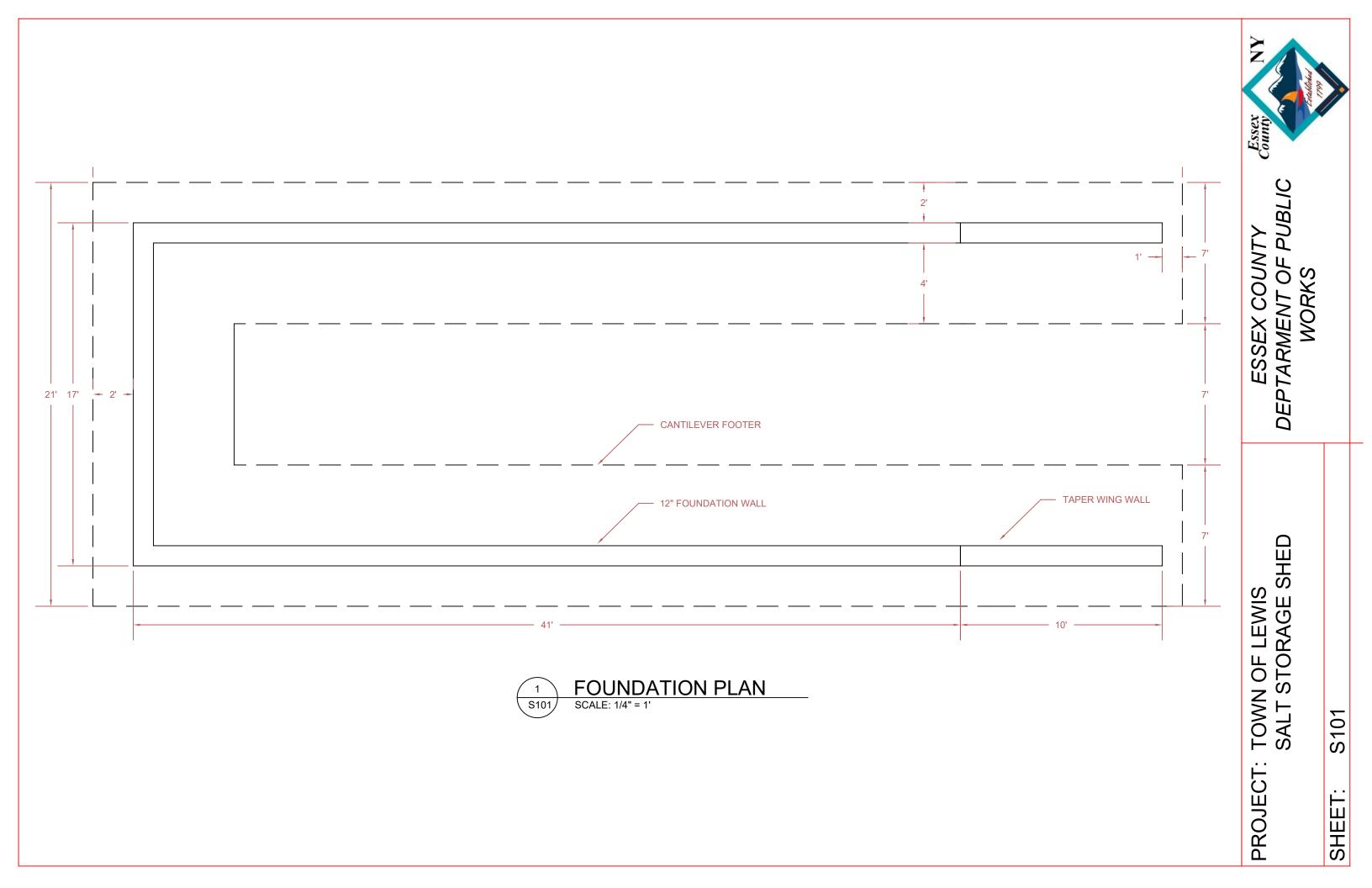
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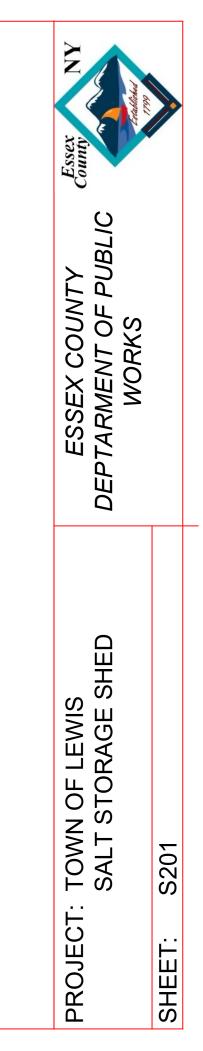
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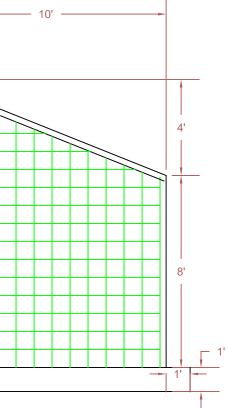
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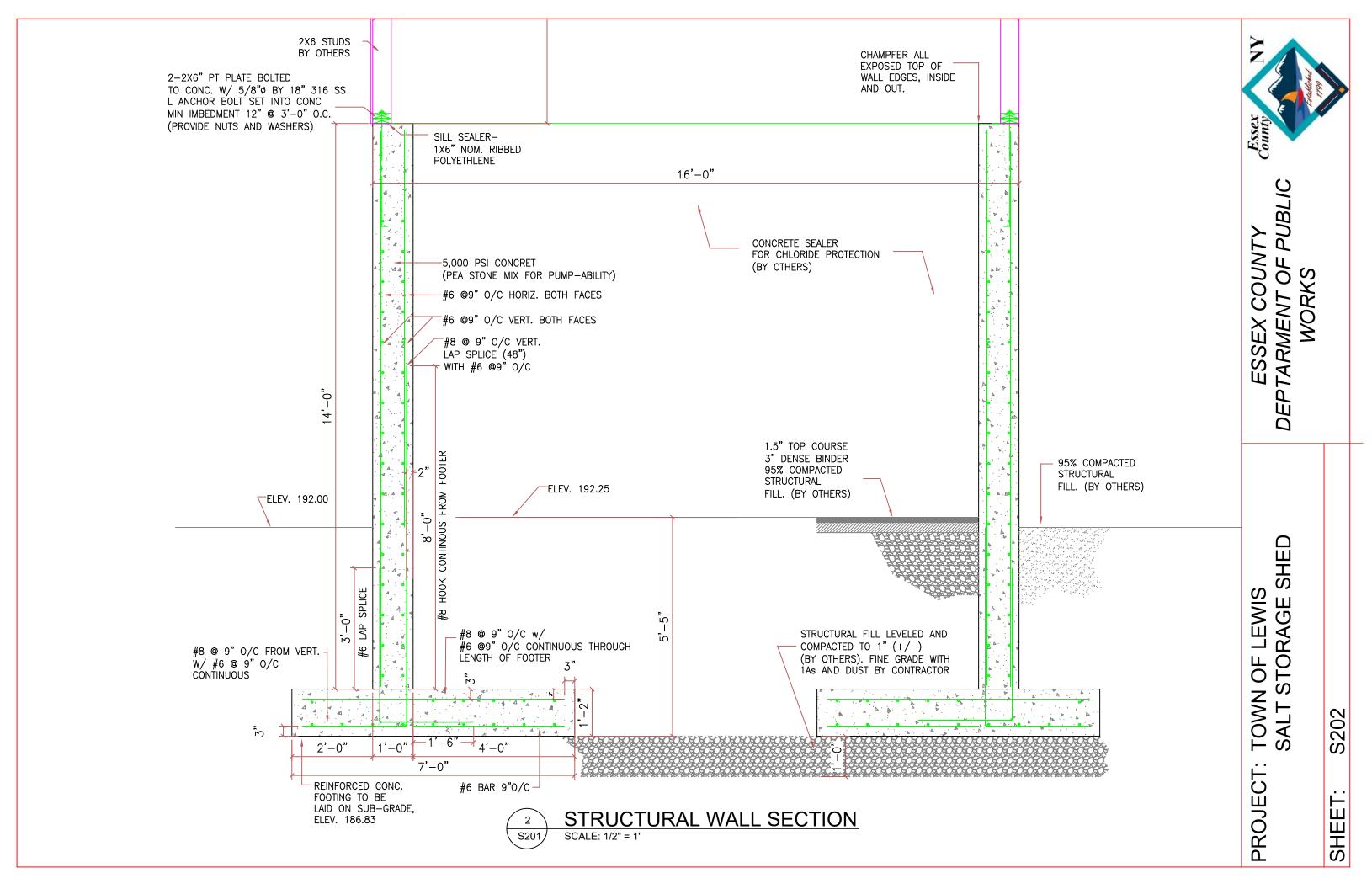


	 	-
wood framed structure (by others)	 	-
PROVIDE 12" MIN. IMBEDMENT WITH EPOXY ADHESIVE	+ 2' +	_ //+
RIENFORCING SAME AS WALL SECTION SHOWN ON SHEET S202. TAPER REINFORCING TO MATCH SECTION DIMMENSTIONS SHOWN.		









SECTION 031000 - CONCRETE FORMING AND ACCESSORIES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Formwork for cast-in-place concrete.
 - 2. Shoring, bracing, and anchorage.
 - 3. Architectural form liners.
 - 4. Form accessories.
 - 5. Form stripping.

B. Related Requirements:

- 1. Section 032000 Concrete Reinforcing: Reinforcing steel and required supports for castin-place concrete.
- 2. Section 033000 Cast-in-Place Concrete: Cast-in-place or in-situ concrete for structural building frame, slabs-on-grade, and other concrete components associated with building.
- 3. Section 055000 Metal Fabrications: Product requirements for metal fabrications for placement by this Section.

1.2 UNIT PRICE - MEASUREMENT AND PAYMENT

A. Section 012000 - Price and Payment Procedures: Contract Sum/Price modification procedures.

1.3 REFERENCE STANDARDS

- A. American Concrete Institute:
 - 1. ACI 117 Specification for Tolerances for Concrete Construction and Materials.
 - 2. ACI 301 Specifications for Structural Concrete.
 - 3. ACI 318 Building Code Requirements for Structural Concrete.
 - 4. ACI 347 Guide to Formwork for Concrete.
- B. American Forest & Paper Association:
 - 1. AF&PA National Design Specification (NDS) for Wood Construction.
- C. APA The Engineered Wood Association:
 - 1. APA/EWA PS 1 Voluntary Product Standard Structural Plywood.

D. ASTM International:

- 1. ASTM D1751 Standard Specification for Preformed Expansion Joint Filler for Concrete Paving and Structural Construction (Nonextruding and Resilient Bituminous Types).
- 2. ASTM E96 Standard Test Methods for Water Vapor Transmission of Materials.
- 3. ASTM E96M Standard Test Methods for Water Vapor Transmission of Materials.

1.4 COORDINATION

- A. Section 013000 Administrative Requirements: Requirements for coordination.
- B. Coordinate Work of this Section with other Sections of Work in forming and placing openings, slots, reglets, recesses, sleeves, bolts, anchors, other inserts, and components of other Work.

1.5 SUBMITTALS

- A. Section 013300 Submittal Procedures: Requirements for submittals.
- B. Product Data: Submit manufacturer information on void form materials and installation requirements.
- C. Shop Drawings:
 - 1. Indicate:
 - a. Formwork, shoring, and reshoring.
 - b. Pertinent dimensions, openings, methods of construction, types of connections, materials, joint arrangement and details, ties and shores, location of framing, studding and bracing, and temporary supports.
 - c. Means of leakage prevention for concrete exposed to view in finished construction.
 - d. Sequence and timing of erection and stripping, assumed compressive strength at time of stripping, height of lift, and height of drop during placement.
 - e. Vertical, horizontal, and special loads according to ACI 347, and camber diagrams when applicable.
 - f. Notes to formwork erector showing size and location of conduits and piping embedded in concrete according to ACI 318.
 - g. Procedure and schedule for removal of shores and installation and removal of reshores.
- D. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- E. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.

1.6 QUALITY ASSURANCE

A. Perform Work according to ACI 347, 301, and 318.

B. For wood products furnished for Work of this Section, comply with AF&PA.

1.7 QUALIFICATIONS

A. Contractor experienced in the construction of form work, shoring and bracing.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Section 016000 Product Requirements: Requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept void forms on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials off ground in ventilated and protected manner to prevent deterioration from moisture.

PART 2 - PRODUCTS

2.1 PERFORMANCE AND DESIGN CRITERIA

- A. Design and construct formwork, shoring, and bracing according to ACI 318 to conform to design and applicable code requirements to achieve concrete shape, line, and dimension as indicated on Drawings.
- B. Vapor Retarder Permeance: Maximum 1 perm when tested according to ASTM E96.

2.2 WOOD FORM MATERIALS

- A. Plywood Forms:
 - 1. Application: Exposed finish concrete.
 - 2. Description:
 - a. Comply with APA/EWA PS 1.
 - b. Panels: Full size, 4 by 8 feet.
 - c. Label each panel with grade trademark of APA/EWA.
 - 3. Plywood for Surfaces to Receive Membrane Waterproofing:
 - a. Minimum Thickness: 5/8 inch.
 - b. Grade: APA/EWA "B-B Plyform Structural I Exterior."
 - 4. Plywood with "Smooth Finish" Indicated on Drawings:

- a. Minimum Thickness: 3/4 inch.
- b. Grade: APA/EWA "HD Overlay Plyform Structural I Exterior."

2.3 PREFABRICATED FORMS

- A. Preformed Steel Forms:
 - 1. Description: Matched, tightly fitted, and stiffened to support weight of concrete without deflection detrimental to tolerances and appearance of finished surfaces.
 - 2. Minimum Thickness: 16 gage
- B. FRP Forms: Matched, tightly fitted, and stiffened to support weight of concrete without deflection detrimental to tolerances and appearance of finished concrete surfaces.
- C. Pan:
 - 1. Material: Steel
 - 2. Configuration: Size and profile as required.
- D. Steel Forms:
 - 1. Description: Sheet steel, suitably reinforced.
 - 2. Design: For particular use as indicated on Drawings.
- E. Form Liners: Smooth, durable, grainless, and non-staining hardboard unless otherwise indicated on Drawings.

2.4 COATINGS

- A. Coatings for Aluminum:
 - 1. Polyamide epoxy finish coat with paint manufacturer's recommended primer for aluminum substrate.
 - 2. One coat primer and one coat finish.

2.5 FORMWORK ACCESSORIES

- A. Form Ties:
 - 1. Type: cone.
 - 2. Material: Galvanized
 - 3. Length: Fixed to wall dimensions.
 - 4. Furnish waterproofing washer, integral waterbarrier.
 - 5. Designed to resist lateral pressure of fresh concrete on forms and to prevent spalling of concrete on removal.
 - 6. Free of defects capable of leaving holes 1 to 1.25 in concrete surface.

- 7. All fasteners shall break to a depth of 1" or more to provide a minimum of 1" cover from the concrete surface to the closest corrodible metal.
- B. Spreaders:
 - 1. Description: Standard, non-corrosive metal-form clamp assembly, of type acting as spreaders and leaving no metal within 1 inch of concrete face.
 - 2. Wire ties, wood spreaders, or through bolts are not permitted.
- C. Form Release Agent:
 - 1. Description: Colorless mineral oil that will not stain concrete or absorb moisture or impair natural bonding or color characteristics of coating intended for use on concrete.
 - 2. Formulate form-release agent with rust inhibitor for steel form-facing materials.
- D. Corners:
 - 1. Type: Chamfer, wood, pvc or rubber.
 - 2. Size: $\frac{3}{4}$ " unless otherwise noted.
 - 3. Lengths: Maximum possible.
- E. Dovetail Anchor Slot:
 - 1. Material: Galvanized steel.
 - 2. Thickness: 22 gauge.
 - 3. Filling: Foam
 - 4. Fasten slot to concrete formwork according to manufacturer instructions, and insert foam filler to prevent concrete from entering slot during pour.
- F. Flashing Reglets:
 - 1. Material: Galvanized steel
 - 2. Thickness: 22 gauge
 - 3. Lengths: Maximum possible.
 - 4. Furnish alignment splines for joints.
 - 5. Filling: Foam
 - 6. Fasten flashing reglet to concrete formwork according to manufacturer instructions, and insert foam to prevent concrete from entering reglet during pour.
- G. Vapor Retarder:
 - 1. ASTM E 1745, Class A
 - 2. Description: Polyethylene sheet.
 - 3. Thickness: 15 mils.
 - 4. Stegowrap 15 mil Class A or Moistop Ultra by Fortifiber.
- H. Bituminous Joint Filler: Comply with ASTM D1751.

I. Nails, Spikes, Lag Bolts, Through Bolts, Anchorages: Size, strength, and character to maintain formwork in place while placing concrete.

J. Waterstop:

- 1. Material: Flexible PVC, extruded from an elastomeric plastic material of which the basic resin is prime virgin polyvinyl chloride. No recycled or reclaimed material is permitted.
- 2. Working Temperature Range: Minus 50 to plus 175 degrees F
- 3. Width: Minimum flange width of 6 inches.
- 4. Lengths: Maximum possible.
- 5. Profile: Ribbed with a center bulb.
- 6. Corner Sections: Preformed.
- 7. Jointing: Heat welded.
- 8. Performance Requirements

Property Test Method Required Limits

Water absorption	ASTM D 570	0.15% max
		200 lb/in (35 kN/m) min.
Tear Resistance	ASTM D 624	
Ultimate Elongation	ASTM D 638	350% min.
	ASTIVI D 030	2000 psi (13.78 Mpa) min.
		2000 psi (15.76 Mpa) iiiii.
Tensile Strength	ASTM D 638	
		No Failure @ -35 ₀ F (-37 ₀ C)
Low Temperature Brittleness	ASTM D 746	
		600 psi (4.13 Mpa) min.
Stiffness in Flexure	ASTM D 747	
Specific Gravity	ASTM D 792	1.45 max.
		70 + 2
Hardness, Shore A	ASTM D 2240	79 +3 1850 psi (11.03 Mpa) min.
		1850 psi (11.05 Mpa) min.
Tensile Strength after accelerated	CRD-C 572	
extraction		
Elongation after accelerated extraction	CRD-C 572	300% min.
Effect of Alkalies after 7 days: Weight		between -0.10% /
Change Hardness Change	CRD-C 572	+0.25% +/- 5 points
	CKD-C 372	

K. Waterstop (retrofit):

1. Description: Flexible strip of bentonite waterproofing compound in coil form for joints in concrete construction.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Section 017000 Execution and Closeout Requirements: Requirements for installation examination.
- B. Verify lines, levels, and centers before proceeding with formwork.
- C. Verify that dimensions agree with Drawings.
- D. If formwork is placed after reinforcement resulting in insufficient concrete cover over reinforcement, request instructions from Architect/Engineer before proceeding.

3.2 INSTALLATION

- A. Formwork:
 - 1. Provide top form for sloped surfaces steeper than 1.5 horizontal to 1 vertical to hold shape of concrete during placement, unless it can be demonstrated that top forms can be omitted.
 - 2. Construct forms to correct shape and dimensions, mortar-tight, braced, and of sufficient strength to maintain shape and position under imposed loads from construction operations.
 - 3. Camber forms where necessary to produce level finished soffits unless indicated otherwise on Drawings.
 - 4. Positioning:
 - a. Carefully verify horizontal and vertical positions of forms.
 - b. Correct misaligned or misplaced forms before placing concrete.
 - 5. Complete wedging and bracing before placing concrete.
 - 6. Erect formwork, shoring, and bracing to achieve design requirements according to ACI 301 to support vertical, lateral, static and dynamic loads and construction loads that might be applied until concrete structure can support such loads.
 - 7. Stripping:
 - a. Arrange and assemble formwork to permit dismantling and stripping.
 - b. Do not damage concrete during stripping.
 - c. Permit removal of remaining principal shores.
 - 8. Obtain approval of Architect/Engineer before framing openings in structural members not indicated on Drawings.
 - 9. Install fillet and chamfer strips on external corners of beams, joists, columns, and walls.
 - 10. Install void forms according to manufacturer instructions.
 - 11. Do not reuse wood formwork more than two times for concrete surfaces to be exposed to view.

- 12. Do not patch formwork.
- 13. Leave forms in place for minimum number of days according to ACI 347.
- B. Form Removal:
 - 1. Do not remove forms or bracing until concrete has gained sufficient strength to carry its own weight and imposed loads, and removal has been approved by Architect/Engineer.
 - 2. Loosen forms carefully; do not wedge pry bars, hammers, or tools against finish concrete surfaces scheduled for exposure to view.
 - 3. Store removed forms in manner that surfaces to be in contact with fresh concrete will not be damaged.
 - 4. Discard damaged forms.
 - 5. Form Release Agent:
 - a. Apply according to manufacturer instructions.
 - b. Apply prior to placement of reinforcing steel, anchoring devices, and embedded items.
 - c. Do not apply form release agent if concrete surfaces are indicated to receive special finishes or applied coverings that may be affected by agent.
 - d. Soak inside surfaces of untreated forms with clean water, and keep surfaces coated prior to placement of concrete.
 - 6. Form Cleaning:
 - a. Clean forms as erection proceeds to remove foreign matter within forms.
 - b. Clean formed cavities of debris prior to placing concrete.
 - c. Flush with water or use compressed air to remove remaining foreign matter.
 - d. Ensure that water and debris drain to exterior through cleanout ports.
 - e. Cold Weather:
 - 1) During cold weather, remove ice and snow from within forms.
 - 2) Do not use de-icing salts.
 - 3) Do not use water to clean out forms, unless formwork and concrete construction proceed within heated enclosure; use compressed air or other dry method to remove foreign matter.
 - 7. Reuse and Coating of Forms:
 - a. Thoroughly clean forms and reapply form coating before each reuse.
 - b. For exposed Work, do not reuse forms with damaged faces or edges.
 - c. Apply form coating to forms according to manufacturer instructions.
 - d. Do not coat forms for concrete indicated to receive "scored finish."
 - e. Apply form coatings before placing reinforcing steel.
- C. Forms for Smooth Finish Concrete:
 - 1. Use steel, plywood, or lined-board forms.
 - 2. Use clean and smooth plywood and form liners, uniform in size, and free from surface and edge damage capable of affecting resulting concrete finish.

- 3. Install form lining with close-fitting square joints between separate sheets without springing into place.
- 4. Use full-sized sheets of form liners and plywood wherever possible.
- 5. Tape joints to prevent protrusions in concrete.
- 6. Apply forming and strip wood forms in a manner to protect corners and edges.
- 7. Level and continue horizontal joints.
- 8. Keep wood forms wet until stripped.
- D. Architectural Form Liners:
 - 1. Erect architectural side of formwork first.
 - 2. Attach form liner to forms before installing form ties.
 - 3. Install form liners square, with joints and pattern aligned.
 - 4. Seal form liner joints to prevent grout leaks.
 - 5. Dress joints and edges to match form liner pattern and texture.
- E. Forms for Surfaces to Receive Membrane Waterproofing:
 - 1. Use plywood or steel forms.
 - 2. After erection of forms, tape form joints to prevent protrusions in concrete.
- F. Framing, Studding, and Bracing:
 - 1. Maximum Spacing of Studs:
 - a. Boards: Maximum 16 inches
 - b. Plywood: 12 inches
 - 2. Size framing, bracing, centering, and supporting members for sufficient strength to maintain shape and position under imposed loads from construction operations.
 - 3. Construct beam soffits of material minimum 2 inches thick.
 - 4. Distribute bracing loads over base area on which bracing is erected.
 - 5. When placed on ground, protect against undermining, settlement, and accidental impact.
- G. Form Anchors and Hangers:
 - 1. Do not use anchors and hangers leaving exposed metal at concrete surface.
 - 2. Symmetrically arrange hangers supporting forms from structural-steel members to minimize twisting or rotation of member.
 - 3. Penetration of structural-steel members is not permitted.
- H. Inserts, Embedded Parts, and Openings:
 - 1. Install formed openings for items to be embedded in or passing through concrete Work.
 - 2. Locate and set in place items required to be cast directly into concrete.
 - 3. Position recessed reglets for brick veneer masonry anchors according to spacing and intervals as indicated on Drawings.
 - 4. Install accessories straight, level, and plumb, and ensure that items are not disturbed during concrete placement.

- 5. Joints:
 - a. Install waterstops continuous without displacing reinforcement.
 - b. Heat-seal joints watertight.

6. Openings:

- a. Provide temporary ports or openings in formwork as required to facilitate cleaning and inspection.
- b. Locate openings at bottom of forms to allow flushing water to drain.
- 7. Close temporary openings with tight-fitting panels, flush with inside face of forms, and neatly fitted such that joints will not be apparent in exposed concrete surfaces.
- I. Form Ties:
 - 1. Provide sufficient strength and quantity to prevent spreading of forms.
 - 2. Place ties at least 1 inch (25 mm) away from finished surface of concrete.
 - 3. Leave inner rods in concrete when forms are stripped.
 - 4. Space form ties equidistant, symmetrical, and aligned vertically and horizontally unless indicated otherwise on Drawings.
- J. Arrange formwork to allow proper erection sequence and to permit form removal without damage to concrete.
- K. Construction Joints:
 - 1. Install surfaced pouring strip where construction joints intersect on exposed surfaces to provide straight line at joints.
 - 2. Just prior to subsequent concrete placement, remove strip and tighten forms to conceal shrinkage.
 - 3. Appearance:
 - a. Show no overlapping of construction joints.
 - b. Construct joints to present same appearance as butted plywood joints.
 - 4. Arrange joints in continuous line straight, true, and sharp.
- L. Embedded Items:
 - 1. Make provisions for pipes, sleeves, anchors, inserts, reglets, anchor slots, nailers, waterstops, and other features.
 - 2. Do not embed wood or uncoated aluminum in concrete.
 - 3. Obtain installation and setting information for embedded items furnished under other Sections.
 - 4. Securely anchor embedded items in correct location and alignment prior to placing concrete.
 - 5. Ensure that conduits and pipes, including those made of coated aluminum, meet requirements of ACI 318 regarding size and location limitations.

- M. Openings for Items Passing through Concrete:
 - 1. Frame openings in concrete where indicated on Drawings.
 - 2. Establish exact locations, sizes, and other conditions required for openings and attachment of Work specified under other Sections.
 - 3. Coordinate Work to avoid cutting and patching of concrete after placement.
 - 4. Perform cutting and repairing of concrete required as result of failure to provide required openings.
- N. Screeds:
 - 1. Set screeds and establish levels for tops of and finish on concrete slabs.
 - 2. Slope slabs to drain where required or as indicated on Drawings.
 - 3. Before depositing concrete, remove debris from space to be occupied by concrete and thoroughly wet forms; remove freestanding water.
- O. Screed Supports:
 - 1. For concrete over waterproof membranes and vapor retarder membranes, use cradle-, pad-, or base-type screed supports that will not puncture membrane.
 - 2. Staking through membrane is not permitted.
- P. Cleanouts and Access Panels:
 - 1. Provide removable cleanout sections or access panels at bottoms of forms to permit inspection and effective cleaning of loose dirt, debris, and waste material.
 - 2. Clean forms and surfaces against which concrete is to be placed.
 - 3. Remove chips, sawdust, and other debris.
 - 4. Thoroughly blow out forms with compressed air just before concrete is placed.

3.3 TOLERANCES

- A. Construct formwork to maintain tolerances according to ACI 301.
- B. Tolerances: Construct formwork to produce completed concrete surfaces within construction tolerances according to ACI 117.
- C. Camber:
 - 1. According to ACI 301.

3.4 FIELD QUALITY CONTROL

- A. Section 014000 Quality Requirements: Requirements for inspecting and testing.
- B. Section 017000 Execution and Closeout Requirements: Requirements for testing, adjusting, and balancing.

- C. Inspection:
 - 1. Inspect erected formwork, shoring, and bracing to ensure that Work complies with formwork design and that supports, fastenings, wedges, ties, and items are secure.
 - 2. Notify Architect/Engineer after placement of reinforcing steel in forms but prior to placing concrete.
 - 3. Schedule concrete placement to permit formwork inspection before placing concrete.

3.5 ATTACHMENTS

- A. Basement Walls Not Exposed to View: Site-fabricated plywood coated with form oil.
- B. Basement Walls Exposed to View: Site-fabricated rough-sawn lumber.
- C. Supported Floor Slabs: Prefabricated glass-fiber pan forms, treated for exposed-to-view finish.

END OF SECTION 031000

SECTION 032000 - CONCRETE REINFORCING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Reinforcing bars.
 - 2. Welded wire fabric.
 - 3. Reinforcement accessories.
- B. Related Requirements:
 - 1. Section 031000 Concrete Forming and Accessories: Form materials, waterstops, and accessories required to form cast-in-place concrete.
 - 2. Section 033000 Cast-in-Place Concrete: Cast-in-place or in-situ concrete for structural building frame, slabs on grade, and other concrete components associated with building.
 - 3. Section 033500 Concrete Finishing: Reinforcement for concrete floor toppings.

1.2 REFERENCE STANDARDS

- A. American Concrete Institute:
 - 1. ACI 301 Specifications for Structural Concrete.
 - 2. ACI 318 Building Code Requirements for Structural Concrete.
 - 3. ACI 530/530.1 Building Code Requirements and Specification for Masonry Structures.
 - 4. ACI SP-66 ACI Detailing Manual.
- B. American Welding Society:
 - 1. AWS D1.4 Structural Welding Code Reinforcing Steel.
- C. ASTM International:
 - 1. ASTM A184 Standard Specification for Welded Deformed Steel Bar Mats for Concrete Reinforcement.
 - 2. ASTM A615 Standard Specification for Deformed and Plain Carbon-Steel Bars for Concrete Reinforcement.
 - 3. ASTM A704 Standard Specification for Welded Steel Plain Bar or Rod Mats for Concrete Reinforcement.
 - 4. ASTM A706 Standard Specification for Deformed and Plain Low-Alloy Steel Bars for Concrete Reinforcement.
 - 5. ASTM A767 Standard Specification for Zinc-Coated (Galvanized) Steel Bars for Concrete Reinforcement.

- 6. ASTM A775 Standard Specification for Epoxy-Coated Steel Reinforcing Bars.
- 7. ASTM A884 Standard Specification for Epoxy-Coated Steel Wire and Welded Wire Reinforcement.
- 8. ASTM A934 Standard Specification for Epoxy-Coated Prefabricated Steel Reinforcing Bars.
- 9. ASTM A996 Standard Specification for Rail-Steel and Axle-Steel Deformed Bars for Concrete Reinforcement.
- 10. ASTM A1064 Standard Specification for Carbon-Steel Wire and Welded Wire Reinforcement, Plain and Deformed, for Concrete.
- D. Concrete Reinforcing Steel Institute:
 - 1. CRSI 10-MSP Manual of Standard Practice.
 - 2. CRSI 10PLACE Placing Reinforcing Bars.

1.3 COORDINATION

- A. Section 013000 Administrative Requirements: Requirements for coordination.
- B. Coordinate Work of this Section with placement of formwork, formed openings, and other Work.

1.4 SUBMITTALS

- A. Section 013300 Submittal Procedures: Requirements for submittals.
- B. Shop Drawings:
 - 1. Indicate bar sizes, spacings, locations, splice locations, and quantities of reinforcing steel and welded wire fabric.
 - 2. Indicate bending and cutting schedules.
 - 3. Indicate supporting and spacing devices.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Submit certified copies of mill test report of reinforcement materials analysis.
- E. Welder Certificates: Certify welders and welding procedures employed on Work, verifying AWS qualification within previous 12 months.
- F. Source Quality-Control Submittals: Indicate results of shop or factory tests and inspections.
- G. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- H. Qualifications Statement:

1. Welders: Qualify procedures and personnel according to AWS D1.1.

1.5 QUALITY ASSURANCE

- A. Perform Work according to CRSI 10-MSP, ACI 301, ACI 318.
- B. Prepare Shop Drawings according to ACI SP-66.

1.6 QUALIFICATIONS

A. Welders: AWS qualified within previous 12 months for employed weld types.

1.7 DELIVERY, STORAGE, AND HANDLING

- A. Section 016000 Product Requirements: Requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

1.8 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

PART 2 - PRODUCT

2.1 REINFORCEMENT

- A. Deformed and Plain Reinforcement:
 - 1. Material: Steel bars.

CONCRETE REINFORCING

- 2. Comply with ASTM A706.
- 3. Yield Strength: 60 ksi.
- 4. Finish: Uncoated.
- B. Welded Deformed Wire Fabric:
 - 1. Comply with ASTM A1064.
 - 2. Configuration: Flat sheets or Coiled rolls.
 - 3. Finish: Uncoated.

2.2 FABRICATION

- A. Fabricate concrete reinforcement according to CRSI 10-MSP and ACI 318.
- B. Form standard hooks for 180-degree bends, 90-degree bends, stirrups and tie hooks, and seismic hooks as indicated on Drawings.
- C. Form reinforcement bends with minimum diameters according to ACI 318.
- D. Fabricate column reinforcement with offset bends at reinforcement splices.
- E. Form spiral column reinforcement from minimum 3/8-inch diameter continuous deformed bar or wire.
- F. Form ties and stirrups from following:
 - 1. Bars No. 10 and Smaller: No. 3 deformed bars
 - 2. Bars No. 11 and Larger: No. 4 deformed bars.
- G. Weld reinforcement according to AWS D1.4.
- H. Splicing:
 - 1. If not indicated on Drawings, locate reinforcement splices at point of minimum stress.
 - 2. Obtain approval of splice locations from Architect/Engineer.

2.3 ACCESSORY MATERIALS

- A. Tie Wire:
 - 1. Minimum 16 gage, annealed type
- B. Chairs, Bolsters, Bar Supports, and Spacers:
 - 1. Size and Shape: To strengthen and support reinforcement during concrete placement conditions.
 - 2. Were vapor retarder is used, furnish load-bearing pad on bottom to prevent vapor retarder puncture.

- C. Special Chairs, Bolsters, Bar Supports, and Spacers Adjacent to Weather-Exposed Concrete Surfaces:
 - 1. Material: Plastic-coated or Stainless steel.
 - 2. Size and Shape: To meet Project conditions.
- D. Reinforcing Splicing Devices:
 - 1. Type: Mechanical threaded; full tension and compression.
 - 2. Size: To fit joined reinforcing.
- E. Epoxy Coating Patching Material: Type as recommended by coating manufacturer.

2.4 SOURCE QUALITY CONTROL

- A. Provide shop inspection and testing of completed assembly.
- B. Section 014000 Quality Requirements: Requirements for testing, inspection, and analysis.
- C. Certificate of Compliance:
 - 1. If fabricator is approved by authorities having jurisdiction, submit certificate of compliance indicating Work performed at fabricator's facility conforms to Contract Documents.
 - 2. Specified shop tests are not required for Work performed by approved fabricator.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Place, support, and secure reinforcement against displacement.
- B. Do not deviate from required position beyond specified tolerance.
- C. Do not weld crossing reinforcement bars for assembly except as permitted by Architect/Engineer.
- D. Do not displace or damage vapor retarder.
- E. Accommodate placement of formed openings.
- F. Spacing:
 - 1. Space reinforcement bars with minimum clear spacing according to ACI 318 equal to one bar diameter but not less than 1 inch.
 - 2. If bars are indicated in multiple layers, place upper bars directly above lower bars.

- G. Maintain minimum concrete cover around reinforcement according to ACI 318 applicable as follows:
 - 1. Footings and Concrete Formed against Earth: 3 inches.
 - 2. Concrete Exposed to Earth or Weather:
 - a. No. 6 Bars and Larger: 2 inches.
 - b. No. 5 Bars and Smaller: 1-1/2 inches.
 - 3. Supported Slabs, Walls, and Joists:
 - a. No. 14 Bars and Larger: 1-1/2 inches.
 - b. No. 11 Bars and Smaller: 3/4 inch.
 - 4. Beams and Columns: 1-1/2 inches.
 - 5. Shell and Folded Plate Members:
 - a. No. 6 Bars and Larger: 3/4 inch.
 - b. No. 5 Bars and Smaller: 1/2 inch.
- H. Bond and ground reinforcement as specified in Section 260526 Grounding and Bonding for Electrical Systems.

3.2 TOLERANCES

- A. Section 014000 Quality Requirements: Requirements for tolerances.
- B. Install reinforcement within following tolerances for flexural members, walls, and compression members:
 - 1. Reinforcement Depth Greater Than 8 Inches:
 - a. Depth Tolerance: Plus or Minus 3/8 inch.
 - b. Concrete Cover Tolerance: Minus 3/8 inch.
 - 2. Reinforcement Depth Less Than or Equal to 8 Inches:
 - a. Depth Tolerance: Plus or Minus 1/2 inch.
 - b. Concrete Cover Tolerance: Minus 1/2 inch.
- C. Foundation Walls: Install reinforcement within tolerances according to ACI 530/530.1.

3.3 FIELD QUALITY CONTROL

- A. Section 014000 Quality Requirements: Requirements for inspecting and testing.
- B. Section 017000 Execution and Closeout Requirements: Requirements for testing, adjusting, and balancing.

- C. Field inspection and testing will be performed by Owner's testing laboratory according to ACI 318.
- D. Provide unrestricted access to Work and cooperate with appointed inspection and testing firm.
- E. Reinforcement Inspection:
 - 1. Placement Acceptance: Inspect specified and ACI 318 material requirements and specified placement tolerances.
 - 2. Welding: Inspect welds according to AWS D1.1.
 - 3. Periodic Placement Inspection: Inspect for correct materials, fabrication, sizes, locations, spacing, concrete cover, and splicing.
 - 4. Weldability Inspection: Inspect for reinforcement weldability if formed from steel other than ASTM A706.
 - 5. Continuous Weld Inspection: Inspect reinforcement according to ACI 318.
 - 6. Periodic Weld Inspection: Inspect other welded connections.

3.4 ATTACHMENTS

- A. Reinforcement for Superstructure Framing Members: Deformed bars, unfinished.
- B. Reinforcement for Foundation Wall Framing Members and Slabs on Grade: Deformed bars and wire fabric, galvanized finish.
- C. Reinforcement for Parking Structure Framing Members: Deformed bars, epoxy-coated finish.

END OF SECTION 032000

SECTION 033000 - CAST-IN-PLACE CONCRETE

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes Cast-in-Place Concrete for Following Items:
 - 1. Building frame members.
 - 2. Beams, lintels, and columns.
 - 3. Shear walls.
 - 4. Retaining walls.
 - 5. Foundation walls.
 - 6. Footings.
 - 7. Supported slabs.
 - 8. Slabs on grade.
 - 9. Control, expansion, and contraction joint devices.
 - 10. Equipment pads.
 - 11. Light pole base.
 - 12. Flagpole base.
 - 13. Thrust blocks.
 - 14. Manholes.

B. Related Requirements:

- 1. Section 031000 Concrete Forming and Accessories: Formwork and accessories, Placement of joint devices in formwork, Placement of joint device anchors in formwork.
- 2. Section 032000 Concrete Reinforcing: Requirements for reinforcing steel and supports.
- 3. Section 033500 Concrete Finishing: Finishing of concrete floor surfaces.
- 4. Section 033900 Concrete Curing: Curing of concrete floor surfaces.
- 5. Section 079000 Joint Protection: Requirements for sealants and primers.
- 6. Section 079500 Expansion Control: Requirements for expansion and control joint cover assemblies.
- 7. Section 312323 Fill: Sand layer over vapor retarder.

1.2 REFERENCE STANDARDS

- A. American Concrete Institute:
 - 1. ACI 301 Specifications for Structural Concrete.
 - 2. ACI 305R Guide to Hot Weather Concreting.
 - 3. ACI 306.1 Standard Specification for Cold Weather Concreting.
 - 4. ACI 308.1 Specification for Curing Concrete.
 - 5. ACI 318 Building Code Requirements for Structural Concrete.

B. ASTM International:

- 1. ASTM B221 Standard Specification for Aluminum and Aluminum-Alloy Extruded Bars, Rods, Wire, Profiles, and Tubes.
- 2. ASTM C31 Standard Practice for Making and Curing Concrete Test Specimens in the Field.
- 3. ASTM C33 Standard Specification for Concrete Aggregates.
- 4. ASTM C39 Standard Test Method for Compressive Strength of Cylindrical Concrete Specimens.
- 5. ASTM C42 Standard Test Method for Obtaining and Testing Drilled Cores and Sawed Beams of Concrete.
- 6. ASTM C94 Standard Specification for Ready-Mixed Concrete.
- 7. ASTM C143 Standard Test Method for Slump of Hydraulic-Cement Concrete.
- 8. ASTM C150 Standard Specification for Portland Cement.
- 9. ASTM C172 Standard Practice for Sampling Freshly Mixed Concrete.
- 10. ASTM C173 Standard Test Method for Air Content of Freshly Mixed Concrete by the Volumetric Method.
- 11. ASTM C231 Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method.
- 12. ASTM C260 Standard Specification for Air-Entraining Admixtures for Concrete.
- 13. ASTM C330 Standard Specification for Lightweight Aggregates for Structural Concrete.
- 14. ASTM C494 Standard Specification for Chemical Admixtures for Concrete.
- 15. ASTM C595 Standard Specification for Blended Hydraulic Cements.
- 16. ASTM C618 Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use in Concrete.
- 17. ASTM C685 Standard Specification for Concrete Made by Volumetric Batching and Continuous Mixing.
- 18. ASTM C845 Standard Specification for Expansive Hydraulic Cement.
- 19. ASTM C989 Standard Specification for Slag Cement for Use in Concrete and Mortars.
- 20. ASTM C1017 Standard Specification for Chemical Admixtures for Use in Producing Flowing Concrete.
- 21. ASTM C1064 Standard Test Method for Temperature of Freshly Mixed Hydraulic-Cement Concrete.
- 22. ASTM C1107 Standard Specification for Packaged Dry, Hydraulic-Cement Grout (Nonshrink).
- 23. ASTM C1116 Standard Specification for Fiber-Reinforced Concrete.
- 24. ASTM C1157 Standard Performance Specification for Hydraulic Cement.
- 25. ASTM C1218 Standard Test Method for Water-Soluble Chloride in Mortar and Concrete.
- 26. ASTM C1240 Standard Specification for Silica Fume Used in Cementitious Mixtures.
- 27. ASTM D994 Standard Specification for Preformed Expansion Joint Filler for Concrete (Bituminous Type).
- 28. ASTM D1751 Standard Specification for Preformed Expansion Joint Filler for Concrete Paving and Structural Construction (Nonextruding and Resilient Bituminous Types).
- 29. ASTM D1752 Standard Specification for Preformed Sponge Rubber Cork and Recycled PVC Expansion Joint Fillers for Concrete Paving and Structural Construction.
- 30. ASTM D6690 Standard Specification for Joint and Crack Sealants, Hot Applied, for Concrete and Asphalt Pavements.

- 31. ASTM E96 Standard Test Methods for Water Vapor Transmission of Materials.
- 32. ASTM E119 Standard Test Methods for Fire Tests of Building Construction and Materials.
- 33. ASTM E1643 Standard Practice for Selection, Design, Installation, and Inspection of Water Vapor Retarders Used in Contact with Earth or Granular Fill Under Concrete Slabs.
- 34. ASTM E1745 Standard Specification for Plastic Water Vapor Retarders Used in Contact with Soil or Granular Fill under Concrete Slabs.

1.3 COORDINATION

- A. Section 013000 Administrative Requirements: Requirements for coordination.
- B. Coordinate placement of joint devices with erection of concrete formwork and placement of form accessories.

1.4 SUBMITTALS

- A. Section 013300 Submittal Procedures: Requirements for submittals.
- B. Product Data: Submit data on joint devices, attachment accessories, and admixtures.
- C. Design Data:
 - 1. Submit concrete mix design for each concrete strength.
 - 2. Submit separate mix designs if admixtures are required for following:
 - a. Hot and cold weather concrete Work.
 - b. Air entrained concrete Work.
 - 3. Identify mix ingredients and proportions, including admixtures.
 - 4. Identify chloride content of admixtures and whether or not chlorides were added during manufacture.
- D. Samples: Submit two samples of expansion/contraction joints and control joints.
- E. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- F. Manufacturer Instructions: Submit installation procedures and interfacing required with adjacent Work.
- G. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.

1.5 CLOSEOUT SUBMITTALS

A. Section 017000 - Execution and Closeout Requirements: Requirements for submittals.

B. Project Record Documents: Record actual locations of embedded utilities and components concealed from view in finished construction.

1.6 QUALITY ASSURANCE

- A. Perform Work according to ACI 301 and ACI 318.
- B. Comply with ACI 305R when pouring concrete during hot weather.
- C. Comply with ACI 306.1 when pouring concrete during cold weather.
- D. Acquire cement and aggregate from one source for Work.

1.7 AMBIENT CONDITIONS

- A. Section 015000 Temporary Facilities and Controls: Requirements for ambient condition control facilities for product storage and installation.
- B. Maintain concrete temperature after installation at minimum 50 degrees F for minimum seven days.

PART 2 - PRODUCTS

2.1 PERFORMANCE AND DESIGN CRITERIA

A. Vapor Retarder Permeance: Maximum 1 perm when tested according to ASTM E96, water method.

2.2 MATERIALS

- A. Concrete:
 - 1. Cement:
 - a. Comply with ASTM C150, Type II Moderate Sulfate Resistant
 - b. Type: Portland.
 - 2. Hydraulic Cement:
 - a. Comply with ASTM C1157
 - 3. Expansive Hydraulic Cement: Comply with ASTM C845.
 - 4. Normal Weight Aggregates:
 - a. Comply with ASTM C33

- b. Coarse Aggregate Maximum Size: According to ACI 318 and the mix designs specified below.
- 5. Water:
 - a. Comply with ACI 318.
 - b. Potable, without deleterious amounts of chloride ions, in compliance with ASTM C 94.
- B. Admixtures:
 - 1. General: Admixtures certified by manufacturer to contain not more than 0.1 percent water-soluble chloride ions by mass of cementitious material and to be compatible with otheradmixtures and cementitious materials. Do not use admixtures containing calcium chloride. All admixtures shall comply with ASTM C494.
 - 2. Air-Entraining Admixture: ASTM C 260.
 - a. Daravair 1000; W. R. Grace & Co.
 - b. MB-AE90-BASF Construction Chemicals, LLC.
 - c. Substitutions or approved equal.
 - 3. Mid-Range Water-Reducing Admixture: ASTM C 494, Type A. Mid-range waterreducers shall only be accepted for use in concrete with water/cement ratios of .45 and above.
 - a. Daracem 55; W. R. Grace & Co.
 - b. Poly Heed 1020-BASF Construction Chemicals, LLC.
 - c. Substitutions or approved equal.
 - 4. High-Range Water-Reducing Admixture: ASTM C 494, Type F. High-range waterreducers shall be required for use in all concrete with water/cement ratios below 0.45.
 - a. ADVA 140; W. R. Grace & Co.
 - b. Glenium 3030 NS-BASF Construction Chemicals, LLC.
 - c. Substitutions or approved equal.
 - 5. Corrosion-Inhibiting Admixture: Commercially formulated, non-set-accelerating, anodic inhibitor or mixed cathodic and anodic inhibitor; capable of forming a protective barrier and minimizing chloride reactions with steel reinforcement in concrete.
 - a. DCI S (Normal Weather Concreting); W. R. Grace & Co., Construction Products.
 - b. DCI (Cold Weather Concreting); W. R. Grace & Co., Construction Products.
 - c. Substitutions or approved equal.
 - 6. Shrinkage Reducing Admixture: Shall be used for air-entrained concrete where freezethaw durability is required in structural members where cracks due to shrinkage are prevalent and the repercussions are most severe.
 - a. Eclipse Plus; W. R. Grace & Co., Construction Products.
 - b. Substitutions or approved equal.
 - 7. Shrinkage Reducing Admixture: Shall be for indoor slabs-on-grade, and may be used for any concrete where there is no requirement for entrained air.
 - a. Eclipse Floor; W. R. Grace & Co., Construction Products.
 - b. Approved Equal Section 00710 Paragraph 6.05.A.1.
 - 8. Fly Ash: Comply with ASTM C618.
 - 9. Silica Fume: Comply with ASTM C1240.
 - 10. Slag:

- a. Description: Ground-granulated blast-furnace slag.
- b. Comply with ASTM C989
- c. Grade 100.

11. Plasticizing:

- a. Comply with ASTM C1017
- b. Type I, plasticizing, or II, plasticizing and retarding.
- C. Joint Devices and Filler:
 - 1. Joint Filler, Type A
 - a. Description: Asphalt-impregnated fiberboard or felt.
 - b. Comply with ASTM D1751 and D994.
 - c. Thickness: 1/4 inch
 - d. Profile: Tongue-and-groove.
 - 2. Joint Filler, Type C
 - a. Description: Premolded sponge rubber.
 - b. Comply with ASTM D1752.
 - c. Thickness: 1/2 inch
 - 3. Construction Joint Devices:
 - a. Material: Integral galvanized steel or extruded plastic.
 - b. Profile: Tongue-and-groove with removable top strip exposing sealant trough and knockout holes spaced at 6 inches o.c.
 - c. Furnish ribbed steel spikes with tongue to fit top screed edge.
 - 4. Expansion and Contraction Joint Devices:
 - a. Comply with ASTM B221.
 - b. Material: Extruded aluminum.
 - c. Filler Strip: Resilient neoprene with Shore A hardness of 35 to permit plus or minus 25 percent joint movement with full recovery.
 - d. Cover Plate: Vinyl, of longest manufactured length at each location, and flush mounted.
 - 5. Sealant:
 - a. Comply with ASTM D6690.
 - b. Type: [I] [II] [III] [IV].
 - 6. Sealant:
 - a. Description: Cold-applied,

2.3 CONCRETE MIX

- A. Select proportions for concrete according to ACI 318 without trial mixtures or field test data if approved by Architect/Engineer.
- B. Performance and Design Criteria:
 - 1. Compressive Strength: 5,000 psi at 28 days.
 - 2. Cement Type: ASTM C150
 - 3. Minimum Cementitious Content: 790 lb./cu. yd. of concrete
 - 4. Aggregate Type: Normal weight.
 - 5. Fiber Reinforcement: None
 - 6. Maximum Water-Cement Ratio: 0.38
 - 7. Aggregate Size:
 - a. Maximum: ³/₄ inch.
 - 8. Air Content: 6.5 percent, plus or minus 1.5 percent.
 - 9. Maximum Water: 300 lbs/cy of concrete.
 - 10. Slump:
 - a. Max. initial slump: 3 inches
 - b. Max. slump with high range water reducer: 8 inches
 - 11. Air Content: 6.5%
 - 12. Corrosion Inhibiting Admixture: 2 gal/cy of concrete
- C. Admixtures:
 - 1. Include admixture types and quantities indicated in concrete mix designs only if approved by Architect/Engineer.
 - 2. Cold Weather:
 - a. Use accelerating admixtures in cold weather.
 - b. Use of admixtures will not relax cold-weather placement requirements.
 - 3. Hot Weather: Use set-retarding admixtures.
 - 4. Do not use calcium chloride or admixtures containing calcium chloride.
 - 5. Add air entrainment admixture to concrete mix for Work exposed to freezing and thawing or deicing chemicals.
 - 6. For concrete exposed to deicing chemicals, limit fly ash, pozzolans, silica fumes, and slag content.
- D. Ready-Mixed Concrete: Mix and deliver concrete according to ASTM C94 and C685
- E. Site-Mixed Concrete: Mix concrete according to ACI 318.

2.4 ACCESSORIES

A. Bonding Agent:

- 1. Description: Polymer resin emulsion, Polyvinyl acetate, Latex emulsion, Two-component modified epoxy resin, Non-solvent two-component polysulfide epoxy Mineral-filled polysulfide polymer epoxy, Mineral-filled polysulfide polymer epoxy resin, Polyamide-cured epoxy.
- B. Vapor Retarder:
 - 1. Description: Clear polyethylene film. Use Fabric Reinforced in areas that film is subject to aggressive conditions.
 - 2. Comply with ASTM E1745.
 - 3. Thickness: 8 mils
 - 4. Type: As recommended for below-grade application.
 - 5. Joint Tape: As recommended by manufacturer.
- C. Non-shrink Grout:
 - 1. Description: Premixed compound consisting of non-metallic aggregate, cement, and water-reducing and plasticizing agents.
 - 2. Comply with ASTM C1107.
 - 3. Minimum Compressive Strength: 2,400 psi in 48 hours and 7,000 psi in 28 days.
- D. Concrete Reinforcing Fibers:
 - 1. Description: High-strength industrial-grade fibers specifically engineered for secondary reinforcement of concrete.
 - 2. Comply with ASTM C1116.
 - 3. Tensile Strength: 130 ksi.
 - 4. Toughness: 15 ksi.
 - 5. Fiber Length: ³/₄ inch.
 - 6. Fiber Count: 34 million/lb.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Section 017000 Execution and Closeout Requirements: Requirements for installation examination.
- B. Verify requirements for concrete cover over reinforcement.
- C. Verify that anchors, seats, plates, reinforcement, and other items to be cast into concrete are accurately placed, positioned securely, and will not interfere with placing concrete.

3.2 PREPARATION

- A. Section 017000 Execution and Closeout Requirements: Requirements for installation preparation.
- B. Previously Placed Concrete:
 - 1. Prepare previously placed concrete by cleaning with steel brush and applying bonding agent.
 - 2. Remove laitance, coatings, and unsound materials.
- C. In locations where new concrete is doweled to existing work, drill holes in existing concrete, insert steel dowels, and pack solid with non-shrink grout.
- D. Remove debris and ice from formwork, reinforcement, and concrete substrates.
- E. Remove water from areas receiving concrete before concrete is placed.

3.3 INSTALLATION

- A. Placing Concrete:
 - 1. Place concrete according to ACI 301 and 318.
 - 2. Notify testing laboratory and Architect/Engineer minimum 24 hours prior to commencement of operations.
 - 3. Ensure that reinforcement, inserts, embedded parts, formed expansion and contraction joints, and any penetration castings are not disturbed during concrete placement.
 - 4. Install vapor retarder under interior slabs on grade according to ASTM E1643.
 - 5. Lap joints minimum 6 inches and seal watertight by adhesive applied between overlapping edges and ends.
 - 6. Repairs:
 - a. Repair vapor retarder damaged during placement of concrete reinforcement.
 - b. Using vapor retarder material, lap over damaged areas minimum 6 and seal watertight.
 - 7. Joint Filler:
 - a. Separate slabs on grade from vertical surfaces with $\frac{1}{2}$ -inch- thick joint filler.
 - b. Place joint filler in floor slab pattern placement sequence; set top to required elevations; secure to resist movement by wet concrete.
 - c. Extend joint filler from bottom of slab to within 1/2 of finished slab surface.
 - d. Finish Joint Sealer Requirements: As specified
 - 8. Joint Devices:

- a. Coordination: Install construction joint devices in coordination with floor slab pattern placement sequence; set top to required elevations; secure to resist movement by wet concrete.
- b. Install joint device anchors, maintaining correct position to allow joint cover to be flush with floor and wall finish.
- c. Install joint covers in longest practical length when adjacent construction activity is complete.
- 9. Deposit concrete at final position, preventing segregation of mix.
- 10. Place concrete in continuous operation for each panel or section as determined by predetermined joints.
- 11. Consolidate concrete.
- 12. Maintain records of concrete placement, including date, location, quantity, air temperature, and test samples taken.
- 13. Place concrete continuously between predetermined expansion, control, and construction joints.
- 14. Do not interrupt successive placement and do not permit cold joints to occur.
- 15. Place floor slabs in indicated checkerboard or saw-cut pattern.
- 16. Saw-Cut Joints:
 - a. Saw-cut joints within 12 hours after placing.
 - b. Use 3/16 inch thick blade.
 - c. Cut into 1/4 depth of slab thickness.
- 17. Screeding:
 - a. Screed floors and slabs on grade level.
 - b. Surface Flatness: FF 20 maximum 1/4 inch in 10 feet, unless otherwise noted for specific drainage purposes.
- B. Separate Floor Toppings:
 - 1. Prior to placing floor topping, remove deleterious material, roughen substrate concrete surface, and broom and vacuum clean.
 - 2. Place required dividers, edge strips, reinforcement and other items to be cast in concrete.
 - 3. Apply bonding agent to substrate.
 - 4. [Apply sand and cement slurry coat on base course, immediately prior to placing toppings.]
 - 5. Place concrete floor toppings to required lines and levels.
 - 6. Place topping in checkerboard panels, with dimension not to exceed 20 feet.
 - 7. Screed toppings level, maintaining surface flatness of FF 30 maximum 1/8 inch in 10 feet.
- C. Concrete Finishing:
 - 1. Provide formed concrete surfaces to be left exposed, walls, columns, beams, joists with smooth-rubbed finish.
 - 2. Finish concrete floor surfaces according to ACI 301 and ACI 318.

- 3. Wood float surfaces receiving quarry tile, ceramic tile, and terrazzo, with full-bed setting system.
- 4. Steel trowel surfaces receiving carpeting, resilient flooring, seamless flooring, thin-set quarry tile, thin-set ceramic tile.
- 5. Steel trowel surfaces indicated to be exposed.
- 6. In areas with floor drains, maintain floor elevation at walls and pitch surfaces uniformly to drains at 1/8 inch per foot minimum, with wet designated areas at 1/4 inch per foot minimum.
- D. Curing and Protection:
 - 1. Immediately after placement, protect concrete from premature drying, excessively hot or cold temperatures, and mechanical injury.
 - 2. Protect concrete footings from freezing for minimum of 7 days.
 - 3. Maintain concrete with minimal moisture loss at relatively constant temperature for period as necessary for hydration of cement and hardening of concrete.
 - 4. Cure concrete according to ACI 308.1 method.
 - 5. Cure floor surfaces according to ACI 301 and ACI 318.
 - 6. Ponding: Maintain 100 percent coverage of water over floor slab areas continuously for 7 days.
 - 7. Spray water over floor slab areas and maintain wetness for 7 days.

3.4 FIELD QUALITY CONTROL

- A. Section 014000 Quality Requirements: Requirements for inspecting and testing.
- B. Section 017000 Execution and Closeout Requirements: Requirements for testing, adjusting, and balancing.
- C. Inspection and Testing: Performed by Owner's testing laboratory according to ACI 318.
- D. Provide unrestricted access to Work and cooperate with appointed testing and inspection firm.
- E. Submit proposed mix design of each class of concrete to inspection and testing firm for review prior to commencement of Work.
- F. Concrete Inspections:
 - 1. Continuous Placement Inspection: Inspect for proper installation procedures.
 - 2. Periodic Curing Inspection: Inspect for specified curing temperature and procedures.
- G. Strength Test Samples:
 - 1. Sampling Procedures: Comply with ASTM C172.
 - 2. Cylinder Molding and Curing Procedures:
 - a. Comply with ASTM C31.
 - b. Cylinder Specimens: Field cured.

- 3. Sample concrete and make one set of three cylinders for every 50 cu. yd. or less of each class of concrete placed each day, and for every 1,000 sq. ft. of surface area for slabs and walls.
- 4. If volume of concrete for a class of concrete would provide less than five sets of cylinders, take samples from five randomly selected batches, or from every batch if less than five batches are used.
- 5. Make one additional cylinder during cold weather concreting and field cure.
- H. Field Testing:
 - 1. Slump Test Method: Comply with ASTM C143.
 - 2. Air Content Test Method: Comply with ASTM C173 and C231.
 - 3. Temperature Test Method: Comply with ASTM C1064.
 - 4. Compressive Strength Concrete:
 - a. Measure slump and temperature for each sample.
 - b. Measure air content in air-entrained concrete for each sample.
- I. Cylinder Compressive Strength Testing:
 - 1. Test Method: Comply with ASTM C39.
 - 2. Test Acceptance: According to ACI 318.
 - 3. Test one cylinder at seven days.
 - 4. Test one cylinder at 28 days.
 - 5. Retain one cylinder for 365 days for testing when requested by Architect/Engineer.
 - 6. Submit to Owner remaining cylinders if testing is not required.
- J. Patching:
 - 1. Allow Architect/Engineer to inspect concrete surfaces immediately upon removal of forms.
 - 2. Honeycombing or Embedded Debris in Concrete:
 - a. Not acceptable.
 - b. Notify Architect/Engineer upon discovery.
 - 3. Patch imperfections as directed by Architect/Engineer according to ACI 301 and according to ACI 318.
- K. Defective Concrete:
 - 1. Description: Concrete not conforming to required lines, details, dimensions, tolerances, or specified requirements.
 - 2. Repair or replacement of defective concrete will be determined by Architect/Engineer.
 - 3. Do not patch, fill, touch up, repair, or replace exposed concrete except upon express direction of Architect/Engineer for each individual area.

3.5 ATTACHMENTS

- A. Schedule Concrete Types and Finishes:
 - 1. Foundation Walls: 5,000 psi, 28-day concrete; form finish with honeycomb-filled surface.
- B. Schedule Joint Fillers:
 - 1. Basement Floor Slab Perimeter Joint Filler: Type A; set 1/8 inch below floor slab elevation.
 - 2. Exterior Retaining Wall at Loading Dock Joint Filler: Type F; recessed 3/8 inch; provide sealant cover.

END OF SECTION 033000

SECTION 033900 - CONCRETE CURING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Initial and final curing of horizontal and vertical concrete surfaces.
- B. Related Requirements:
 - 1. Section 033000 Cast-in-Place Concrete: Cast-in-place or in-situ concrete for structural building frames, slabs on fill or grade, and other concrete components associated with construction.
 - 2. Section 033500 Concrete Finishing: Surface finishing of concrete floor slabs and toppings.

1.2 REFERENCE STANDARDS

- A. American Concrete Institute:
 - 1. ACI 301 Specifications for Structural Concrete.
 - 2. ACI 302.1 Guide to Concrete Floor and Slab Construction.
 - 3. ACI 308.1 Specification for Curing Concrete.
 - 4. ACI 318 Building Code Requirements for Structural Concrete and Commentary.
- B. ASTM International:
 - 1. ASTM C171 Standard Specification for Sheet Materials for Curing Concrete.
 - 2. ASTM C309 Standard Specification for Liquid Membrane-Forming Compounds for Curing Concrete.
 - 3. ASTM C1315 Standard Specification for Liquid Membrane-Forming Compounds Having Special Properties for Curing and Sealing Concrete.
 - 4. ASTM D2103 Standard Specification for Polyethylene Film and Sheeting.

1.3 SUBMITTALS

- A. Section 013300 Submittal Procedures: Requirements for submittals.
- B. Product Data: Submit manufacturer's information on curing compounds, mats, paper, and film, including compatibilities and limitations.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Manufacturer Instructions: Submit detailed instructions on installation requirements, including storage and handling procedures.

- E. Qualifications Statement:
 - 1. Submit qualifications for manufacturer.

1.4 QUALITY ASSURANCE

A. Perform Work according to ACI **301**, **302.1**, **308.1**, **and 318**.

1.5 DELIVERY, STORAGE, AND HANDLING

- A. Section 016000 Product Requirements: Requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Membrane-Curing Compound **Type A**:
 - 1. Comply with ASTM C309
- B. Membrane-Curing Compound:
 - 1. Comply with ASTM C1315
- C. Non-membrane-Forming Curing Compound Type B
 - 1. Liquid, penetrating, siliconate-based type.
 - 2. Type: Combination curing, hardening, and dustproofing.
- D. Absorptive Mats **Type C**:
 - 1. Description:
 - a. Material: Burlap-polyethylene (PE).
 - b. Minimum Weight: 9 oz./sq. yd.

CONCRETE CURING

- c. Bonded to prevent separation during handling and placing.
- 2. Description: Comply with ASTM C171.
- E. Waterproof Paper **Type D**:
 - 1. Description: Curing paper treated to prevent separation during handling and placing.
 - 2. Comply with ASTM C171.
- F. PE Film **Type E**:
 - 1. Comply with ASTM C171 and D2103.
 - 2. Thickness: 6 mils
- G. Water: Potable; not detrimental to concrete.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Section 017000 Execution and Closeout Requirements: Requirements for application examination.
- B. Verify that substrate surfaces are ready to be cured.

3.2 APPLICATION

- A. Horizontal Surfaces:
 - 1. Comply with ACI 308.1.
 - 2. Ponding: Maintain 100 percent coverage of water over floor slab areas continuously for 7 days.
 - 3. Spraying: Spray water over floor slab areas and maintain wet for 7 days.
 - 4. Absorptive Mat:
 - a. Spread **cotton fabric** over floor slab areas.
 - b. Spray with water until mats are saturated and maintain in saturated condition for 7 days.
 - 5. Absorptive Mat:
 - a. Saturate burlap-PE and place burlap-side down over floor slab areas.
 - b. Lap ends and sides.
 - c. Maintain in place for 7 days.
 - 6. Membrane-Curing Compound: Apply curing compound in two coats with second coat applied at right angles to first.
 - 7. Non-membrane-Forming Curing Compound:

- a. Apply curing compound in one coat and scrub compound into surface.
- b. Maintain surface wet with curing compound, without ponding, for time as recommended by manufacturer.
- 8. PE Film:
 - a. Spread over floor slab areas.
 - b. Lap edges and sides.
 - c. Seal with pressure-sensitive tape **and cover with plywood**.
 - d. Maintain in place for 7 days.
- B. Vertical Surfaces:
 - 1. Comply with ACI 308.1
 - 2. Spraying: Spray water over surfaces and maintain wet for 7 days.
 - 3. Membrane-Curing Compound: Apply compound in two coats with second coat applied at right angles to first.
 - 4. Non-membrane-Forming Curing Compound:
 - a. Apply curing compound in one coat and scrub compound into surface.
 - b. Maintain surface wet with curing compound, without ponding, for time as recommended by manufacturer.

3.3 **PROTECTION**

- A. Section 017000 Execution and Closeout Requirements: Requirements for protecting finished Work.
- B. Do not permit traffic over unprotected floor surfaces.

3.4 ATTACHMENTS

- A. Storage Area Slabs:
 - 1. Description: Absorptive mats.
 - 2. Type: Burlap-PE.
- B. Retaining Walls:
 - 1. Description: Membrane-curing compound.
 - 2. Type: Acrylic.
 - 3. Color: Clear.
- C. Concrete Pavement:
 - 1. Description: Membrane-curing compound.
 - 2. Color: Opaque.

D. Other Floor Areas:

- Description: Membrane-curing compound. Type: Acrylic. Color: Translucent. 1.
- 2.
- 3.

END OF SECTION 033900

APPENDIX E

EJCDC	C	ontractor's A	Payment No.				
ENGINEERS JOINT CONTRACT	Application	Start		Application Date:			
DOCUMENTS COMMITTEE	Period:	Finish					
To (Owner):	From (Contractor):			Technical Reviewer: (Engineer):			
TOWN OF LEWIS		TBA			N/A		
Project:		Contract:			nding Agency & Contact:		
SALT STORAGE SHED		P-0025-2017			N/A		
Owner's Contract No.:		Contractor's Project No.:			Engineer's Project No.:		
N/A					N/A		

Α	pplication For Payment Chang							
Approved Change Orders			1. ORIGINAL CONTRACT PRICE \$					
Number	Additions	2. Net change by Change Orders						
1			3. Current Contract Price (Line 1 ± 2) \$					
2			4. TOTAL COMPLETED AND STORED TO DATE					
3			(Column F on Progress Esti	mate)		S		
4			5. RETAINAGE:					
5			a. 5%		Work Completed	5		
6			b. 5%		Stored Material	5		
7			c. Total Retain	age (Line 5a + Lir	– 1e 5b) \$	5		
8			6. AMOUNT ELIGIBLE TO	DATE (Line 4 - Li	ine 5c) \$	5		
TOTALS	s -	s -	7. LESS PREVIOUS PAYME		·			
NET CHANGE BY			8. AMOUNT DUE THIS APP		/			
CHANGE ORDERS	5	-	9. BALANCE TO FINISH, PL					
			(Column G on Progress Esti			6		

Contractor's Certification:				Payment of:					
The under	rsigned Contractor certifies that to the best	of its knowledge:		i ayinciit oit	\$				
(1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment;				is recommended by	y:	(Line 8 or other - attach explanation of the other amount)			
(2) title of a	all Work, materials and equipment incorporate	d in said Work or ot	herwise listed in or			(Engineer)	(Date)		
 (c) into the order of the equipment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective. 			Payment of:	\$					
				Ť	(Line 8 or other - attach explanation of th	e other amount)			
			is approved by:	_					
					(Owner)	(Date)			
			[
By:		Date:		Approved by:					
25.						Funding Agency (if applicable)	(Date)		

Progress Estimate - Lump Sum Work						Contractor's Application				
For (Contract):	P-0025-2017				Application Number:					
Application Period:	Start:		Finish:		Application Date:					
	A		В	Work C	Work Completed		F		G	
Specification	ecification Description Cection No. MOBILIZATION		Scheduled Value (\$)	C From Previous Application (C+D)	D This Period	Materials Presently Stored	Total Completed and Stored to Date (C + D + E)	% (F / B)	Balance to Finish	
Section No.				Application (C+D)		(not in C or D)	(C + D + E) \$ -		(B - F) \$-	
							s -		- \$-	
	GENERAL CONDITIONS SITE PREPARATION						s -			
	DIV - 031000 - CONCRETE FORMING 8	& ACCESSORIES					\$ -		\$ -	
	DIV - 032000 - CONCRETE REIMFORCI						\$ -		\$ -	
	DIV - 33000 - CAST IN PLACE CONCRETE						\$ -		\$ -	
	DIV - 33-00 - CONCRETE CURING						\$ -		\$ -	
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APPENDIX F

NEW YORK STATE EXECUTIVE LAW ARTICLE 15-A

§ 310. Definitions

As used in this article, the following terms shall have the following meanings:

1. "Certified business" shall mean a business verified as a minority or women-owned business enterprise pursuant to section three hundred fourteen of this article.

2. "Contracting agency" shall mean a state agency which is a party or a proposed party to a state contract or, in the case of a state contract described in paragraph (c) of subdivision thirteen of this section, shall mean the New York state housing finance agency, housing trust fund corporation or affordable housing corporation, whichever has made or proposes to make the grant or loan for the state assisted housing project.

3. "Contractor" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.

4. "Director" shall mean the director of the division of minority and women's business development in the department of economic development.

5. "Large county" shall mean a county having a population in excess of two hundred eighty-five thousand according to the most recent federal decennial census, provided however, that a county having a population in excess of two hundred eighty-five thousand according to the nineteen hundred eighty federal decennial census shall continue to be a large county thereafter notwithstanding a later census showing a population of less than two hundred eighty-five thousand for such county.

6. "Metropolitan area" shall mean a city with a population of one million or more and a county having a population in excess of one million and immediately contiguous to such city.

7. "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more minority group members;

(b) an enterprise in which such minority ownership is real, substantial and continuing;

(c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated;

(e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

(f) an enterprise that is a small business pursuant to subdivision twenty of this section.

8. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America.

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

9. "Utilization plan" shall mean a plan prepared by a contractor and submitted in connection with a proposed state contract. The utilization plan shall identify certified minority or women-owned business enterprises, if known, that have committed to perform work in connection with the proposed state contract as well as any such enterprises, if known, which the contractor intends to use in connection with the contractor's performance of the proposed state contract. The plan shall specifically contain a list, including the name, address and telephone number, of each certified enterprise with which the contractor intends to subcontract.

10. "Office" shall mean the division of minority and women's business development in the department of economic development.

11. "State agency" shall mean (a)(i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, or (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law:

(b) a "state authority," as defined in subdivision one of section two of the public authorities law, and the following:

Albany County Airport Authority;

Albany Port District Commission;

Alfred, Almond, Hornellsville Sewer Authority;

Battery Park City Authority;

Cayuga County Water and Sewer Authority;

(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation;

Industrial Exhibit Authority;

Livingston County Water and Sewer Authority;

Long Island Power Authority;

Long Island Rail Road;

Long Island Market Authority;

Manhattan and Bronx Surface Transit Operating Authority;

Metro-North Commuter Railroad;

Metropolitan Suburban Bus Authority;

Metropolitan Transportation Authority;

Natural Heritage Trust;

New York City Transit Authority;

New York Convention Center Operating Corporation;

New York State Bridge Authority;

New York State Olympic Regional Development Authority;

New York State Thruway Authority;

Niagara Falls Public Water Authority;

Niagara Falls Water Board;

Port of Oswego Authority;

Power Authority of the State of New York;

Roosevelt Island Operating Corporation;

Schenectady Metroplex Development Authority;

State Insurance Fund;

Staten Island Rapid Transit Operating Authority;

State University Construction Fund;

Syracuse Regional Airport Authority;

Triborough Bridge and Tunnel Authority.

Upper Mohawk valley regional water board.

Upper Mohawk valley regional water finance authority.

Upper Mohawk valley memorial auditorium authority.

Urban Development Corporation and its subsidiary corporations.

(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:

Dormitory Authority of the State of New York;

Facilities Development Corporation;

New York State Energy Research and Development Authority;

New York State Science and Technology Foundation.

12. "State assisted housing project" shall mean, for such projects which receive from the New York state housing finance agency, the affordable housing corporation, the housing trust fund corporation or the division of housing and community renewal a grant or loan for all or part of the total project cost:

(a) a "permanent housing project for homeless families" or "project" as defined in subdivision five of section sixty-four of the private housing finance law;

(b) a "project" as defined in subdivision twelve of section one thousand one hundred one of the private housing finance law provided said project is located in a large county and consists of more than twelve residential units at a single site;

(c) "affordable home ownership development programs" or "project" as defined in subdivision eight of section one thousand one hundred eleven of the private housing finance law provided said project is located in a metropolitan area as herein defined and consists of more than twelve residential units at a single site;

(d) a "turnkey/enhanced rental project" or "project" as defined in subdivision two of section one thousand one hundred six-a of the private housing finance law;

(e) "infrastructure improvements" as defined in subdivision two of section one thousand one hundred thirty-one of the private housing finance law, to the extent that such "infrastructure improvements" are applied for in connection with a state assisted housing project as defined in paragraphs (a) through (d) of this subdivision and provided further that the applicant for such infrastructure improvements and for such state assisted housing project are identical. 13. "State contract" shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars, whereby a contracting agency is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; (b) a written agreement in excess of one hundred thousand dollars whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred to expend or does expend funds for the acquisition, construction, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred to expend or does expend funds for the acquisition, construction, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; major repair or renovation of real property and project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

14. "Subcontract" shall mean an agreement providing for a total expenditure in excess of twenty-five thousand dollars for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed, but shall not include any construction, demolition, replacement, major repair, renovation, planning or design of real property or improvements thereon for the beneficial use of the contractor.

15. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;

(b) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated;

(e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

(f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

16. "Statewide advocate" shall mean the person appointed by the commissioner to serve in the capacity of the minority and women-owned business enterprise statewide advocate.

17. "Commissioner" shall mean the commissioner of the department of economic development.

18. "Lessee" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a lease with a state agency as defined in subdivision eleven of this section, or a respondent in conjunction with the award of such a lease or a proposed lessee with a state agency as defined in subdivision eleven of this section.

19. "Personal net worth" shall mean the aggregate adjusted net value of the assets of an individual remaining after total liabilities are deducted. Personal net worth includes the individual's share of assets held jointly with said individual's spouse and does not include the individual's ownership interest in the certified minority and women-owned business enterprise, the individual's equity in his or her primary residence, or up to five hundred thousand dollars of the present cash value of any qualified retirement savings plan or individual retirement account held by the individual less any penalties for early withdrawal.

20. "Small business" as used in this section, unless otherwise indicated, shall mean a business which has a significant business presence in the state, is independently owned and operated, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto. The director may issue regulations on the construction of the terms in this definition.

21. "The 2010 disparity study" shall refer to the disparity study commissioned by the empire state development corporation, pursuant to section three hundred twelve-a of this article, and published on April twenty-nine, two thousand ten.

22. "Diversity practices" shall mean the contractor's practices and policies with respect to:

(a) utilizing certified minority and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; and

(b) entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority or women-owned business enterprises.

23. "Provisional MWBE Certification" shall mean minority and women-owned business enterprise certification status which shall not exceed one year, but which may be renewed by the director.

§ 311. Division of minority and women's business development

1. The head of the division of minority and women's business development shall be the director who shall be appointed by the governor and hold office at the pleasure of the commissioner. It shall be the duty of the director of the division of minority and women's business development to assist the governor in the formulation and implementation of laws and policies relating to minority and women-owned business enterprises.

2. The director may appoint such deputies, assistants, and other employees as may be needed for the performance of the duties prescribed herein subject to the provisions of the civil service law and the rules and regulations of the civil service commission. The director may request and shall receive from any department, division, board, bureau, executive commission or agency of the state such assistance as may be necessary to carry out the provisions of this article.

3. The director shall have the following powers and duties:

(a) to encourage and assist contracting agencies in their efforts to increase participation by minority and women-owned business enterprises on state contracts and subcontracts so as to facilitate the award of a fair share of such contracts to them;

(b) to develop standardized forms and reporting documents necessary to implement this article;

(c) to conduct educational programs consistent with the purposes of this article;

(d) to review periodically the practices and procedures of each contracting agency with respect to compliance with the provisions of this article, and to require them to file periodic reports with the division of minority and women's business development as to the level of minority and women-owned business enterprises participation in the awarding of agency contracts for goods and services;

(e) on January first of each year report to the governor and the chairpersons of the senate finance and assembly ways and means committees on the level of minority and women-owned business enterprises participating in each agency's contracts for goods and services and on activities of the office and effort by each contracting agency to promote employment of minority group members and women, and to promote and increase participation by certified businesses with respect to state contracts and subcontracts so as to facilitate the award of a fair share of state contracts to such businesses. The comptroller shall assist the division in collecting information on the participation of certified business for each contracting agency. Such report may recommend new activities and programs to effectuate the purposes of this article;

(f) to prepare and update periodically a directory of certified minority and women-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services; (g) to appoint independent hearing officers who by contract or terms of employment shall preside over adjudicatory hearings pursuant to section three hundred fourteen of this article for the office and who are assigned no other work by the office;

(h) notwithstanding the provisions of section two hundred ninety-six of this chapter, to file a complaint pursuant to the provisions of section two hundred ninety-seven of this chapter where the director has knowledge that a contractor may have violated the provisions of paragraph (a), (b) or (c) of subdivision one of section two hundred ninety-six of this chapter where such violation is unrelated, separate or distinct from the state contract as expressed by its terms; and

(i) to streamline the state certification process to accept federal and municipal corporation certifications.

4. The director may provide assistance to, and facilitate access to programs serving certified businesses as well as applicants to ensure that such businesses benefit, as needed, from technical, managerial and financial, and general business assistance; training; marketing; organization and personnel skill development; project management assistance; technology assistance; bond and insurance education assistance; and other business development assistance. In addition, the director may, either independently or in conjunction with other state agencies:

(a) develop a clearinghouse of information on programs and services provided by entities that may assist such businesses;

(b) review bonding and paperwork requirements imposed by contracting agencies that may unnecessarily impede the ability of such businesses to compete; and

(c) seek to maximize utilization by minority and women-owned business enterprises of available federal resources including but not limited to federal grants, loans, loan guarantees, surety bonding guarantees, technical assistance, and programs and services of the federal small business administration.

§ 311-a. Minority and women-owned business enterprise statewide advocate

1. There is hereby established within the department of economic development an office of the minority and women-owned business enterprise statewide advocate. The statewide advocate shall be appointed by the

commissioner with the advice of the small business advisory board as established in section one hundred thirty-three of the economic development law and shall serve in the unclassified service of the director. The statewide advocate shall be located in the Albany empire state development office.

2. The advocate shall act as a liaison for minority and women-owned business enterprises (MWBEs) to assist them in obtaining technical, managerial, financial and other business assistance for certified businesses and applicants. The advocate shall investigate complaints brought by or on behalf of MWBEs concerning certification delays and instances of violations of law by state agencies. The statewide advocate shall assist certified businesses and applicants in the certification process. Other functions of the statewide advocate shall be directed by the commissioner. The advocate may request and the director may appoint staff and employees of the division of minority and women business development to support the administration of the office of the statewide advocate.

3. The statewide advocate shall establish a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process.

4. The statewide advocate shall report to the director and commissioner by November fifteenth on an annual basis on all activities related to fulfilling the obligations of the office of the statewide advocate. The commissioner shall include the unedited text of the statewide advocate's report within the reports submitted by the department of economic development to the governor and the legislature.

§ 312. Equal employment opportunities for minority group members and women

1. All state contracts and all documents soliciting bids or proposals for state contracts shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this article affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation. (b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.

(c) The contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the state contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

2. The contractor will include the provisions of subdivision one of this section in every subcontract, except as provided in subdivision six of this section, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the state contract.

3. The provisions of this section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the state contract as expressed by its terms.

4. In the implementation of this section, the contracting agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. The director shall promulgate rules and regulations to ensure that contractors and subcontractors undertake programs of affirmative action and equal employment opportunity as required by this section. Such rules and regulations as they pertain to any particular agency shall be developed after consultation with contracting agencies. Such rules and regulations may require a contractor, after notice in a bid solicitation, to submit an equal employment opportunity program after bid opening and prior to the award of any contract, and may require the contractor or subcontractor to submit compliance reports relating to the contractor's or subcontractor's operation and implementation of any equal employment opportunity program in effect

as of the date the contract is executed. The contracting agency may recommend to the director that the director take appropriate action according to the procedures set forth in section three hundred sixteen of this article against the contractor for noncompliance with the requirements of this section. The contracting agency shall be responsible for monitoring compliance with this section.

6. The requirements of this section shall not apply to any employment outside this state or application for employment outside this state or solicitations or advertisements therefor, or any existing programs of affirmative action regarding employment outside this state and the effect of contract provisions required by subdivision one of this section shall be so limited.

§ 312-a. Study of minority and women-owned business enterprise programs

1. The director of the division of minority and women-owned business development in the department of economic development is authorized and directed to recommission a statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts since the amendment of this article to be delivered to the governor and legislature no later than August fifteenth, two thousand sixteen. The study shall be prepared by an entity independent of the department and selected through a request for proposal process. The purpose of such study is:

(a) to determine whether there is a disparity between the number of qualified minority and women-owned businesses ready, willing and able to perform state contracts for commodities, services and construction, and the number of such contractors actually engaged to perform such contracts, and to determine what changes, if any, should be made to state policies affecting minority and women-owned business enterprises; and (b) to determine whether there is a disparity between the number of qualified minorities and women ready, willing and able, with respect to labor markets, qualifications and other relevant factors, to participate in contractor employment, management level bodies, including boards of directors, and as senior executive officers within contracting entities and the number of such group members actually employed or affiliated with state contractors in the aforementioned capacities, and to determine what changes, if any, should be made to state policies affecting minority and women group populations with regard to state contractors' employment and appointment practices relative to diverse group members. Such study shall include, but not be limited to, an analysis of the history of minority and women-owned business enterprise

programs and their effectiveness as a means of securing and ensuring participation by minorities and women, and a disparity analysis by market area and region of the state. Such study shall distinguish between minority males, minority females and non-minority females in the statistical analysis.

2. The director of the division of minority and women-owned business development is directed to transmit the disparity study to the governor and the legislature not later than August fifteenth, two thousand sixteen, and to post the study on the website of the department of economic development.

§ 313. Opportunities for minority and women-owned business enterprises

1. Goals and requirements for agencies and contractors. Each agency shall structure procurement procedures for contracts made directly or indirectly to minority and women-owned business enterprises, in accordance with the findings of the two thousand ten disparity study, consistent with the purposes of this article, to attempt to achieve the following results with regard to total annual statewide procurement:

(a) construction industry for certified minority-owned business enterprises: fourteen and thirty-four hundredths percent;

(b) construction industry for certified women-owned business enterprises: eight and forty-one hundredths percent;

(c) construction related professional services industry for certified minorityowned business enterprises: thirteen and twenty-one hundredths percent;

(d) construction related professional services industry for certified womenowned business enterprises: eleven and thirty-two hundredths percent;

(e) non-construction related services industry for certified minority-owned business enterprises: nineteen and sixty hundredths percent;

(f) non-construction related services industry for certified women-owned business enterprises: seventeen and forty-four hundredths percent;

(g) commodities industry for certified minority-owned business enterprises: sixteen and eleven hundredths percent;

(h) commodities industry for certified women-owned business enterprises: ten and ninety-three hundredths percent;

(i) overall agency total dollar value of procurement for certified minorityowned business enterprises: sixteen and fifty-three hundredths percent;

(j) overall agency total dollar value of procurement for certified womenowned business enterprises: twelve and thirty-nine hundredths percent; and

(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises: twenty-eight and ninety-two hundredths percent.

1-a. The director shall ensure that each state agency has been provided with a copy of the two thousand ten disparity study.

1-b. Each agency shall develop and adopt agency-specific goals based on the findings of the two thousand ten disparity study.

2. The director shall promulgate rules and regulations pursuant to the goals established in subdivision one of this section that provide measures and procedures to ensure that certified minority and women-owned businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses.

2-a. The director shall promulgate rules and regulations that will accomplish the following:

(a) provide for the certification and decertification of minority and womenowned business enterprises for all agencies through a single process that meets applicable requirements;

(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability, as contained within the study, of certified minority and women-owned business enterprises to respond competitively to the potential subcontract opportunities; (c) require that each agency provide a current list of certified minority business enterprises to each prospective contractor;

(d) allow a contractor that is a certified minority-owned or women-owned business enterprise to use the work it performs to meet requirements for use of certified minority-owned or women-owned business enterprises as subcontractors;

(e) provide for joint ventures, which a bidder may count toward meeting its minority and women-owned business enterprise participation;

(f) consistent with subdivision six of this section, provide for circumstances under which an agency may waive obligations of the contractor relating to minority and women-owned business enterprise participation;

(g) require that an agency verify that minority and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(h) provide for the collection of statistical data by each agency concerning actual minority and women-owned business enterprise participation; and

(i) require each agency to consult the most current disparity study when calculating agency-wide and contract specific participation goals pursuant to this article.

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the director pursuant to section three hundred fifteen of this article shall include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses provided to the contracting agency by the office; (b)

requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contractor except with respect to a state contract.

4. In the implementation of this section, the contracting agency shall (a) consult the findings contained within the disparity study evidencing relevant industry specific availability of certified businesses;

(b) implement a program that will enable the agency to evaluate each contract to determine the appropriateness of the goal pursuant to subdivision one of this section;

(c) consider where practicable, the severability of construction projects and other bundled contracts; and

(d) consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of any such law duplicate or conflict with the provisions hereof and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. (a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to meet the maximum feasible portion of the agency's goals adopted pursuant to this article and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in

the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority and womenbusiness enterprise participation requirements pursuant owned to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section in the event a contractor is failing or has failed to comply with minority and women-owned business enterprise participation the requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) Without limiting other grounds for the disgualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disgualification, that issue and all other grounds for disgualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disgualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disgualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

6. Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises located in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and womenowned businesses located outside the region in which the contract is to be performed to perform the state contract.

7. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event, (i) whether or not certified minority or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and (ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and

(b) whether there has been written notification to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

8. In the event that a contracting agency fails or refuses to issue a waiver to a contractor as requested within twenty days after having made application therefor pursuant to subdivision six of this section or if the contracting agency denies such application, in whole or in part, the contractor may file a complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contractor's complaint together with a demand for relief. The contractor shall serve a copy of such complaint upon the contracting agency by personal service or by certified mail, return receipt requested. The contracting agency shall be afforded an opportunity to respond to such complaint in writing.

9. If, after the review of a contractor's minority and women owned business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

§ 313-a. Diversity practices of state contractors

The director shall promulgate rules and regulations setting forth measures and procedures to require all contracting agencies, where practicable, feasible and appropriate, to assess the diversity practices of contractors

submitting bids or proposals in connection with the award of a state contract. Such rules and regulations shall take into account: the nature of the labor, services, supplies, equipment or materials being procured by the state agency; the method of procurement required to be used by a state agency to award the contract and minority and women-owned business utilization plans required to be submitted pursuant to sections three hundred twelve and three hundred thirteen of this article; and such other factors as the director deems appropriate or necessary to promote the award of state contracts to contractors having sound diversity practices. Such assessment shall not in any way permit the automatic rejection of a bid or procurement contract proposal based on lack of adherence to diversity practices. Each bid or proposal shall be analyzed on an individual per bid or per proposal basis with the contractor's diversity practices considered as only a part of a wider consideration of several factors when deciding to award or decline to award a bid or proposal. The director shall develop the rules and regulations required hereunder only after consultation with the state procurement council established by section one hundred sixty-one of the state finance law.

§ 314. Statewide certification program

1. The director shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial or revocation of any such certification. Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law.

2. For the purposes of this article, the office shall be responsible for verifying businesses as being owned, operated, and controlled by minority group members or women and for certifying such verified businesses. The director shall prepare a directory of certified businesses for use by contracting agencies and contractors in carrying out the provisions of this article. The director shall periodically update the directory.

2-a. (a) The director shall establish a procedure enabling the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. All eligible municipal corporation certifications shall require business enterprises seeking certification to meet the following standards: (i) have at least fifty-one percent ownership by a minority or a womenowned enterprise and be owned by United States citizens or permanent resident aliens;

(ii) be an enterprise in which the minority and/or women-ownership interest is real, substantial and continuing;

(iii) be an enterprise in which the minority and/or women-ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) be an enterprise authorized to do business in this state;

(v) be subject to a physical site inspection to verify the fifty-one percent ownership requirement;

(vi) be owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually for inflation according to the consumer price index; and

(vii) be an enterprise that is a small business pursuant to subdivision twenty of section three hundred ten of this article.

(b) The director shall work with all municipal corporations that have a municipal minority and women-owned business enterprise program to develop standards to accept state certification to meet the municipal corporation minority and women-owned business enterprise certification standards.

(c) The director shall establish a procedure enabling the division to accept federal certification verification for minority and women-owned business enterprise applicants, provided said standards comport with those required by the state minority and women-owned business program, in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of federal certification.

3. Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any outstanding deficiencies, within thirty days. Within sixty days of submission of a final completed application, the director shall provide the applicant with written notice of a determination by the office approving or denying such certification and, in the event of a

denial a statement setting forth the reasons for such denial. Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reasons therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

4. The director may, after performing an availability analysis and upon a finding that industry-specific factors coupled with personal net worth or small business eligibility requirements pursuant to subdivisions nineteen and twenty of section three hundred ten of this article, respectively, have led to the significant exclusion of businesses owned by minority group members or women in that industry, grant provisional MWBE certification status to applicants from that designated industry, provided, however, that all other eligibility requirements pursuant to subdivision seven or fifteen of section three hundred ten of this article, as applicable, are satisfied. Any industry-based determination made under this section by the director shall be made widely available to the public and posted on the division's website.

5. With the exception of provisional MWBE certification, as provided for in subdivision twenty-three of section three hundred ten of this article, all certifications shall be valid for a period of three years.

§ 315. Responsibilities of contracting agencies

1. Each contracting agency shall be responsible for monitoring state contracts under its jurisdiction, and recommending matters to the office respecting non-compliance with the provisions of this article so that the office may take such action as is appropriate to insure compliance with the provisions of this article, the rules and regulations of the director issued hereunder and the contractual provisions required pursuant to this article. All contracting agencies shall comply with the rules and regulations of the office and are directed to cooperate with the office and to furnish to the office such information and assistance as may be required in the performance of its functions under this article.

2. Each contracting agency shall provide to prospective bidders a current copy of the directory of certified businesses, and a copy of the regulations required pursuant to sections three hundred twelve and three hundred thirteen of this article at the time bids or proposals are solicited.

3. Each contracting agency shall report to the director with respect to activities undertaken to promote employment of minority group members and women and promote and increase participation by certified businesses with respect to state contracts and subcontracts. Such reports shall be submitted periodically, but not less frequently than annually, as required by the director, and shall include such information as is necessary for the director to determine whether the contracting agency and contractor have complied with the purposes of this article, including, without limitation, a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the contracting agency during the period covered by the report, including a description of the basis of the waiver request and the rationale for granting any such waiver. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

4. The division of minority and women's business development shall issue an annual report which: (a) summarizes the report submitted by each contracting agency pursuant to subdivision three of this section; (b) contains such comparative or other information as the director deems appropriate, including but not limited to goals compared to actual participation of minority and women-owned business enterprises in state contracting, to evaluate the effectiveness of the activities undertaken by each such contracting agency to promote increased participation by certified minority or women-owned businesses with respect to state contracts and subcontracts; (c) contains a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by each contracting agency during the period covered by the report, including a description of the basis of the waiver request and the contracting agency's rationale for granting any such waiver; (d) describes any efforts to create a database or other information storage and retrieval system containing information relevant to contracting with minority and womenowned business enterprises; and (e) contains a summary of (i) all determinations of violations of this article by a contractor or a contracting agency made during the period covered by the annual report pursuant to section three hundred sixteen-a of this article and (ii) the penalties or

sanctions, if any, assessed in connection with such determinations and the rationale for such penalties or sanctions. Copies of the annual report shall be provided to the commissioner, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and shall also be made widely available to the public via, among other things, publication on a website maintained by the division of minority and women's business development.

5. Each agency shall include in its annual report to the governor and legislature pursuant to section one hundred sixty-four of the executive law its annual goals for contracts with minority-owned and women-owned business enterprises, the number of actual contracts issued to minority-owned and women-owned business enterprises; and a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the reporting agency during the preceding year, including a description of the basis of the waiver request and the rationale for granting such waiver. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

6. Each contracting agency that substantially fails to meet the goals supported by the disparity study, as defined by regulation of the director, shall be required to submit to the director a remedial action plan to remedy such failure.

7. If it is determined by the director that any agency has failed to act in good faith to implement the remedial action plan, pursuant to subdivision six of this section within one year, the director shall provide written notice of such a finding, which shall be publicly available, and direct implementation of remedial actions to:

(a) assure that sufficient and effective solicitation efforts to women and minority-owned business enterprises are being made by said agency;

(b) divide contract requirements, when economically feasible, into quantities that will expand the participation of women and minority-owned business enterprises;

(c) eliminate extended experience or capitalization requirements, when programmatically and economically feasible, that will expand participation by women and minority-owned business enterprises;

(d) identify specific proposed contracts as particularly attractive or appropriate for participation by women and minority-owned business enterprises with such identification to result from and be coupled with the efforts of paragraphs (a), (b), and (c) of this subdivision; and

(e) upon a finding by the director that an agency has failed to take affirmative measures to implement the remedial plan and to follow any of the remedial actions set forth by the director, and in the absence of any objective progress towards the agency's goals, require some or all of the agency's procurement, for a specified period of time, be placed under the direction and control of another agency or agencies.

§ 316. Enforcement

Upon receipt by the director of a complaint by a contracting agency that a contractor has violated the provisions of a state contract which have been included to comply with the provisions of this article or of a contractor that a contracting agency has violated such provisions or has failed or refused to issue a waiver where one has been applied for pursuant to subdivision six of section three hundred thirteen of this article or has denied such application, the director shall attempt to resolve the matter giving rise to such complaint. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the director shall refer the matter, within thirty days of the receipt of the complaint, to the division's hearing officers. Upon conclusion of the administrative hearing, the hearing officer shall submit to the director his or her decision regarding the alleged violation of the contract and recommendations regarding the imposition of sanctions, fines or penalties. The director, within ten days of receipt of the decision, shall file a determination of such matter and shall cause a copy of such determination along with a copy of this article to be served upon the contractor by personal service or by certified mail return receipt requested. The decision of the hearing officer shall be final and may only be vacated or modified as provided in article seventy-eight of the civil practice law and rules upon an application made within the time provided by such article. The determination of the director as to the imposition of any fines, sanctions or penalties shall be reviewable pursuant to article seventy-eight of the civil practice law and rules. The penalties imposed for any violation which is premised upon either a fraudulent or intentional misrepresentation by the contractor or the contractor's willful and intentional disregard of the minority and womenowned participation requirement included in the contract may include a determination that the contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such contract for a period not to exceed one year following the final determination; provided however, if a contractor has previously been determined to be ineligible to submit a bid pursuant to this section, the penalties imposed for any subsequent violation, if such violation occurs within five years of the first violation, may include a determination that the contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such contract for a period not to exceed five years following the final determination. The division of minority and women's business development shall maintain a website listing all contractors that have been deemed ineligible to submit a bid pursuant to this section and the date after which each contractor shall once again become eligible to submit bids.

§ 316-a. Prohibitions in contracts; violations

Every contracting agency shall include a provision in its state contracts expressly providing that any contractor who willfully and intentionally fails to comply with the minority and women-owned participation requirements of this article as set forth in such state contract shall be liable to the contracting agency for liquidated or other appropriate damages and shall provide for other appropriate remedies on account of such breach. A contracting agency that elects to proceed against a contractor for breach of contract as provided in this section shall be precluded from seeking enforcement pursuant to section three hundred sixteen of this article; provided however, that the contracting agency shall include a summary of all enforcement actions undertaken pursuant to this section in its annual report submitted pursuant to subdivision three of section three hundred fifteen of this article.

§ 317. Superseding effect of article with respect to state law

The provisions of this article shall supersede any other provision of state law, which expressly implements or mandates an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises, concerning action to be taken by any party to a state contract, to which the provisions of this article apply; provided, however, that the provisions of any state law, not as hereinabove superseded, which expressly implement or mandate such programs shall remain unimpaired by the provisions of this article, except that the provisions of any such law shall be construed as if the provisions of subdivisions five, six, seven and eight of section three hundred thirteen and section three hundred sixteen of this article were fully set forth therein and made applicable only to complaints of violations under such provisions of law occurring on or after September first, nineteen hundred eighty-eight; provided, further, that nothing contained in this article shall be construed to limit, impair, or otherwise restrict any state agency's authority or discretionary power in effect prior to the enactment of this article to

establish or continue, by rule, regulation or resolution, an equal opportunity program or a program for securing participation of minority and womenowned business enterprises with regard to banking relationships, the issuance of insurance policies or contracts for the sale of bonds, notes or other securities; and, provided further, that nothing contained in the immediately preceding proviso shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any agency's authority or discretionary power with respect to an equal opportunity program or a program for securing participation of minority and women-owned enterprises.

§ 318. Severability

The provisions of this article shall supersede any other provision of state law, which expressly implements or mandates an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises, concerning action to be taken by any party to a state contract, to which the provisions of this article apply; provided, however, that the provisions of any state law, not as hereinabove superseded, which expressly implement or mandate such programs shall remain unimpaired by the provisions of this article, except that the provisions of any such law shall be construed as if the provisions of subdivisions five, six, seven and eight of section three hundred thirteen and section three hundred sixteen of this article were fully set forth therein and made applicable only to complaints of violations under such provisions of law occurring on or after September first, nineteen hundred eighty-eight; provided, further, that nothing contained in this article shall be construed to limit, impair, or otherwise restrict any state agency's authority or discretionary power in effect prior to the enactment of this article to establish or continue, by rule, regulation or resolution, an equal opportunity program or a program for securing participation of minority and womenowned business enterprises with regard to banking relationships, the issuance of insurance policies or contracts for the sale of bonds, notes or other securities; and, provided further, that nothing contained in the immediately preceding proviso shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any agency's authority or discretionary power with respect to an equal opportunity program or a program for securing participation of minority and women-owned enterprises.



COMPLIANCE REPORT

PRIME CONTRACTOR / CONSULTANT / VENDOR INFORMATION Requisition Date: Requisition Amount: Firm Name: Federal ID No: Project No: Proj Name: Address: Contact: Contract No: WA/JO No (if applicable): Phone: Institution: Institution: Institution: Email: Work Description: Vork Description:

MBE/WBE/SDVOB - PAYMENTS

Instructions: In the appropriate section, please list each NYS Certified MBE/WBE/SDVOB subcontractor or supplier being utilized. All subcontractors and suppliers utilized must be listed regardless of the award amount or the payment being made. Compliance Report Instructions click <u>HERE</u>

MBE PAYMENT INFORMATION

Check if no MBE subcontractors or suppliers are being utilized in this section

MBE Company Information	Federal ID Number	Classification	Amount to be Paid from this Requisition	Total Amount Paid from Prior Requisitions	Subcontract/PO's Award Amount
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier Supplier			
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier			

MBE SUBTOTAL:

WBE PAYMENT INFORMATION

Check if no WBE subcontractors or suppliers are being utilized in this section

WBE Company Information	Federal ID Number	Classification	Amount to be Paid from this Requisition	Total Amount Paid from Prior Requisitions	Subcontract/PO's Award Amount
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier Supplier			
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier			

WBE SUBTOTAL:



COMPLIANCE REPORT

SDVOB PAYMENT INFORMATION

Check if no SDVOB subcontractors or suppliers are being utilized in this section

SDVOB Company Information	Federal ID Number	Classification	Amount to be Paid from this Requisition	Total Amount Paid from Prior Requisitions	Subcontract/PO's Award Amount
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier			
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier			

SDVOB SUBTOTAL:

NON-MBE/WBE/SDVOB - PAYMENTS

Instructions: List each NON-MBE/WBE/SDVOB subcontractor or supplier being utilized with a total award amount of subcontracts and purchase orders greater than \$10,000. All subcontractors and suppliers identified must be listed regardless of the payment being made.

NON-MBE/WBE/SDVOB PAYMENT INFORMATION

NON-MBE/WBE/SDVOB Company Information	Federal ID Number	Classification	Amount to be Paid from this Requisition	Total Amount Paid from Prior Requisitions	Subcontract/PO's Award Amount
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier			
Firm Name:		Subcontractor			
Address:		Subconsultant			
Work Description:		Supplier			

NON-MBE/WBE/SDVOB SUBTOTAL:

REPORT TOTAL:

COMPLIANCE CERTIFICATION*

<u>{name of firm}</u> hereby certifies that for the current payment period: (i) the information in this report regarding MBE/WBE/SDVOB participation on the contract is true and accurate; (ii) the MBE/WBE/SDVOB subcontractors and vendors listed in this report have performed a commercially useful function on the project and have not, other than as allowed in the approved Utilization Plan, subcontracted their assigned scope of work to a non-MBE/WBE/SDVOB entity; and (iii) it is in compliance with the approved Utilization Plan for the contract.

Principal	or Officer (print name and title)	Sign	nature Dat
Subscribed and sworn to	before me in the State of		
County of	thisday of	, 20	

*False statements, information or data submitted on or with Application for Payment, may result in one or more of the following actions: Termination of Contract for cause; disapproval of future bids, contracts, or subcontracts; withholding of final payments on the contract; and civil and/or criminal prosecution.

DASNY's review of this report does not relieve the Contractor of its obligation to provide a true and accurate report and strictly comply with its approved Utilization Plan and Contract General Conditions requirements.



STANDARD EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

PRIME I		tractor 🗌 C	Consultant 🗌 Vendo	r
Firm Nar	ne:			
Addre	ss:	_		
С	ity:	State:	Zip Code:	
Conta	act:	_		
Pho	ne:	_ Email:		
PROJE	CT INFORMATION			
Project I	No: Project Na	ame:		Contract Amount:
	ity:			
С	ss: ity:	State:	_ Zip Code:	
	escription:			
The follo by mino project:	rity, women and service o	disabled vet	teran persons in the	commitment to provide participation e workforce at the above referenced
(Initial)		ure that all fo	oremen, superintende	arassment, intimidation and coercion ents and other supervisory personnel th a working environment.
(Initial)	recruitment sources and	notify such s	sources and minority	omen and service disabled veteran and community organizations when ord of the sources' and organizations'
(Initial)	veteran person referred b	y any individ ith respect to	lual, recruitment sour o each such-referred	minority, woman or service disabled rce or community organization and of individual. If the individual was not
(Initial)	bargaining agreement, ha	s not referre he work or w	d to us a minority pe hen it has other infor	with which DASNY has a collective erson or woman sent by us to such a mation that the union referral process

(Initial) Will disseminate this Equal Employment Opportunity policy statement within the organization and will provide all subcontractors with a copy, discussing it with them prior to commencing work at the job site. A copy of DASNY's Equal Employment policy shall be posted at the job site at all times.



E.O. 162 Workforce Utilization Report

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Reporting Entity	Contractor Subc	ontractor	٦					Г	Janua					April 1	- June 30		٦				Preparer's Na	ame:										
			-					F	July 1						r 1 - December 3	1																
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Contractor Name								L.	Reporting N		elect One						-															
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Contractor Address			-						April			May		-	June Septer	and an	_															
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L	(Subcontractor - Please include your P	rime's Contract Number)	-					Г				erformance of (Contract										Check this t	ox to request that	at the mate	erial included her	ein be withheld fro	om disclosi	ure pursuant to Ar	ticle 6 of the Pu'	olic	
										Contractor/	Subcontract	tor's Total Work	force										Officers Lav	v (Freedom of Inf	ormation L	Law).			ure pursuant to Art			
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APPENDIX E

New York 🛋	State	i≣ Sta
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	Prevailing Wage						
Unemployment Benefits	Career Services	Business Services	Worker Protection	Forms and Publications	Home		

Thank you for your submission. Your request has been assigned a 'Reference Number', and is being processed. You will receive an email regarding your request within 24 to 48 hours

Reference Number: 1478690 Type of Contracting Agency: Town

Contracting Agency	Send Reply To
Town of Lewis Robert Wick Project Manager POB 59 Lewis NY 12950	
(518) 873-3426 (518) 873- 3751 Fax rwick@co.essex.ny.us	

Project Information

Project Title	Town of Lewis Salt Shed
Description of Work	Construction of a salt storage shed for the Town Highway Dept.
Contract Id No.	P-1002-2019
Project Locations(s)	Lewis Highway Garage
Route No / Street Address	Rte 9
Village / City	
Town	Lewis
State / Zip	NY 12950
Nature of Project	Building Service Contract
Approximate Bid Date	05/10/2019
Checked Occupation(s)	Construction (Building, Heavy & Highway, Sewer, Water, Tunnel)

Applicable Counties

Essex