

# Town of Lewis, New York

## **Request for Engineering Services Qualifications/Proposal:**

### **WD#1 Water Main Replacements Project**

**PROJECT NUMBER: P-0097-2017**

**DATE ISSUED: February 16, 2018**

#### **Program Requirements:**

- Community Block Development Grant (CDBG) Grant Administration Manual
  - <http://www.nyshcr.org/AboutUs/Procurement/Contractinformation.htm>
  - <http://www.nyshcr.org/Programs/NYS-CDBG/GrantAdministration.htm>

# TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
REQUEST FOR PROPOSALS – ENGINEERING Services .....	3
INTRODUCTION .....	3
A. Overview.....	3
B. Time of Response .....	3
C. Term of Contract.....	3
D. Funding Agency Requirements.....	4
PROFESSIONAL SERVICE REQUIREMENTS.....	5
A. Scope of Work .....	5
B. Quality of Work .....	6
C. Records .....	6
D. Additional Requirements .....	7
SUBMITTAL REQUIREMENTS .....	8
A. RFP CHECKLIST: .....	8
B. Letter of Interest.....	9
C. Other Preliminary Requirements .....	9
D. Main Proposal .....	9
EVALUATION CRITERIA AND SCORING.....	11
SELECTION PROCESS .....	11
QUESTIONS .....	12
SUBMITTAL DUE DATE.....	12
RFP SUBMITTAL REQUIREMENTS CHECKLIST.....	13
APPENDIX A: LEWIS WATER REPORT 2017 .....	14
APPENDIX B: CDBG PROGRAM REQUIREMENTS .....	15
APPENDIX C: ENGINEER REFERENCES .....	16
APPENDIX D: CONFLICT OF INTEREST STATEMENT .....	17
APPENDIX E: CERTIFICATE OF AUTHORITY .....	18
APPENDIX F: VENDOR RESPONSIBILITY QUESTIONNAIRE.....	19
APPENDIX G: W-9 FORM .....	20
APPENDIX H: NON-COLLUSION AFFIDAVIT .....	21
APPENDIX I: IRAN DIVESTMENT ACT COMPLIANCE .....	22
APPENDIX J: TOWN OF LEWIS APPROVED SPECIFICATIONS.....	23
APPENDIX K: SCHEDULE OF VALUES FOR COST PROPOSAL .....	24
APPENDIX L: DRAFT FORM OF CONTRACT (EJCDC) .....	25

# REQUEST FOR PROPOSALS – ENGINEERING SERVICES

## INTRODUCTION

### A. Overview

This Request for Proposals (“RFP”) is being issued by the TOWN OF LEWIS (“the Town”) for engineering services to design a construction project to address the Water District #1 shortfalls. An engineering report was completed in 2017, and is included herein as **Appendix A**, for reference of the technical background of this engineering services RFP. The engineering and construction will be funded by Office of Community Renewal’s (OCR) Community Development Block Grant (CDBG) Program, and all aspects must be compliant to their requirements, which are included herein as **Appendix B**.

Companies with demonstrated experience in civil engineering projects and public funding agency administration interested in making their services available to The Town of Lewis are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is licensed to provide such services in New York State. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

The Town of Lewis is seeking to encourage participation by respondents who are DBE/MBE/WBE, Section 3 and/or Veterans’ business enterprises. For the purposes of the project, the Town of Lewis is requiring a documented DBE/MBE/WBE & Section 3 participation compliance & good faith effort per the CDBG Program requirements listed in **Appendix B** by providing evidence of direct solicitation to M/WBE’s after contract award, but before given Notice to Proceed.

Nothing in this RFP shall be construed to create any legal obligation on the part of the Town or any respondents. The Town reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall the Town be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from the Town for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the Town. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

### B. Time of Response

Respondents will have approximately four (4) weeks to provide a response to this RFP. The Town and resources from Essex County will review the proposals and respond within two (2) weeks of RFP closure, after Town Board Meetings are held, currently anticipated to be on/about **March 24<sup>th</sup>, 2018**.

### C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period of approximately twenty-four (24) months, and will expire upon completion of the projects’

administrative close out. *Substantial completion of the construction of the project must be completed no later than 11/15/19, and administrative closeout must be complete no later than 5/01/20.*

#### **D. Funding Agency Requirements**

Award recipients must follow the guidance provided in CDBG's Grant Administration Manual, which some excerpts are included in this RFP as **Appendix B** for reference. All Respondents must demonstrate capability to adhere to the following Funding Agencies' requirements:

- NYS Home & Community Renewal (HCR) / Office of Community Renewal (OCR):  
<http://www.nyshcr.org/AboutUs/Procurement/Contractinformation.htm>
- Davis Bacon Related Acts (DBRA) Compliance
- Disadvantaged Business Enterprises (DBE) & Minority Women Business Enterprise (MWBE) Compliance
- Section 3 Compliance
- Equal Employment Opportunity (EEO) Compliance
- Anti-Lobbying Policy
- Non-Collusive Bidding Certification (Appendix H)
- Vendor Responsibility Questionnaire (Appendix F)

**Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. Dates and schedules provided by the above funding agencies will be incorporated into project scope of work and schedule requirements.**

# PROFESSIONAL SERVICE REQUIREMENTS

## A. Scope of Work

The Town seeks proposals from qualified respondents to provide engineering & design services for the replacement of approximately 1500 LF of water mains in the Lewis Water District #1, and all required appurtenances. A brief engineering report has been conducted as recent as 2017 describing the district and the condition of the water mains, included in this RFP package as **Appendix A**.

Recipients will provide a Cost Proposal according to the Tasks listed in the “Consultant Deliverables” Table in **Appendix K**. The majority of all Tasks are Lump Sum, with the Alternate RPR Services provided as Hourly Rates, and Reimbursables capped at Cost Plus 10%. For a detailed description of the services and deliverables in each Phase, see “Draft Form of Contract”, **Appendix L, Exhibit A “Engineers Services”**.

### Overview of Engineer responsibilities:

- **General Requirements:**
  - Engineer shall produce and manage the Project Schedule and be responsible for own deliverables to be complete such that reasonable time is allotted for the water main construction, which is assumed to be twelve (12) weeks of construction.
  - Engineer shall be responsible for Project Management & coordinate at a minimum of (1) project meeting a month for each phase of the project with all stakeholders.
  - Permitting activities must be done in coordination with the Town and Essex County support staff. Engineer will be responsible for producing documents to support all necessary permits.
  - Permits are identified on **Task 3 of Appendix K, “Consultant Deliverables”**.
  - Program Management for CDBG compliance through the lifecycle of the project.
  - *Include “Mileage” fees in this LS category.*
- **Schematic Designs:** *(30% completion to completely support permitting processes)*
  - Any required surveys, Preliminary Designs and Schematic Designs shall be completed at the end of this deliverable and will be sufficient to complete any and all local permitting requirements, and to enable the project to have the CDBG Environmental Review process to be completed.
- **Final Designs:** *(100% complete & approvable for Regulatory/Funding Agency reviews)*
  - Final Design Phase deliverable shall include all necessary drawings and specifications for the project to be approved by NYS DOH, local highway, NYS DOT and any others as required for the purposes of Bidding.
  - All Construction Documents shall be compliant by NYS DOH, local highway, NYS DOT and CDBG program requirements, contain clarifications to construction bidders for compliance with these agencies and any others as required.

- **Bidding Phase:** (*incl. Program Compliant “Construction Documents”*)
  - Respondents shall include service for providing bidding services for the project that is compliant with CDBG program requirements and provides the Town with the best value and ability to meet the project constraint schedule and budget.
  - Respondents shall organize and lead the Pre-Bid Meeting and keep Meeting Minutes, and respond to any and all Request for Information (RFIs).
  - *Include “Printing” and “Postage” fees in this LS category.*
- **Construction Administration:**
  - Respondents shall organize and lead the Preconstruction Meeting and keep Meeting Minutes during all Construction Phase and Post Construction activities.
  - Respondents shall provide services during construction administration to ensure that the project is CDBG program compliant by requiring any and all reports be provided along with payment applications in the form of monthly submittals. This is listed under **“General Conditions – Program Mgmt”**.
  - Respondents shall also ensure the project meets the established schedule and budget constraints.
- **Post Construction:**
  - Respondents shall ensure that the project is constructed as designed and meets all codes and regulations.
  - Respondents shall also ensure that all project close out documents are complete and in order for auditing and/or archival.
- **ALTERNATE: Resident Project Representative (RPR) Services:**
  - Respondents shall provide costs for conducting the RPR Services. At the time of this RFP posting the Town’s goal is to conduct these services organically; however if the need arises to require the engineer to do this service the Town will at a later date make this determination.
  - RPR must have DOT certifications; provide this in the ‘Qualifications’ section.
  - **Provide this RPR services Cost Proposal as HOURLY rates, not a Lump Sum basis.**
- **Reimbursables: (Limited to Cost + 10%)**
  - *Geotechnical Evaluations*
  - *Archaeological Evaluations*
  - *Surveys*

## **B. Quality of Work**

All work shall follow recognized professional practices and standards and meet the specifications required by local, state and federal approval of the project’s plans and specification prior to advertising the project for construction bidding.

## **C. Records**

The design professional is to maintain all books, documents, papers, account records and other evidence pertaining to this work and to make such materials available at their respective offices at all reasonable times during the agreement and for a period up to seven **(7) years** from the date of final payment under the agreement. Throughout the project, the respondent will be required to

coordinate with the Town and the Essex County Planning Office via regular project meetings and other electronic project management software.

**All reports, documents, information, presentations, electronic drawings, and other materials prepared by the award recipient in connection with this Agreement are the Owner's sole property in which the award recipient has no proprietary or other rights or interests.** All reports, documents, information and any materials or equipment furnished to the award recipient by the Owner shall remain the sole property of the owner and except for the award recipient's limited possession of the purpose of carrying out the Work, shall be returned to the Owner at the conclusion of the Agreement. **Nothing written in this paragraph, however, will be interpreted to forbid the award recipient from retaining a single copy of the information for its files.**

#### **D. Additional Requirements**

Professional services shall comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (HUD, EPA, OSHA, and DOT), state agencies (State OSHA, DNR, and DCH), and any other local regulations and standards (i.e. local ordinance and building codes) that may apply. **Further requirements are identified in the accompanying Appendix of this RFP.**

**The Town has established required/desired "brand name or equal" products to meet existing configuration management of the Town's water system. These are provided in Appendix J; note however that the Town requires products that meet these *equivalent* specifications, and that the funding agency precludes establishment of specific products to be procured under the grant program.**

## SUBMITTAL REQUIREMENTS

### A. RFP CHECKLIST:

The Town reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following, per the **RFP Response Checklist:**

#### **FOR THE RESPONDENT TO PROVIDE:**

- ☐ RFP Submittal Requirements Checklist (*Provide Checklist with RFP Response*)
- ☐ Letter of Interest
- ☐ Qualifications Proposal:
  - Description of Company
  - Capacity of Company
  - State License and or Certification
- ☐ Project Management Plan (*Describe your approach in detail*)
- ☐ Schedule Proposal (*Provide in a Gantt Chart format*)
- ☐ Pricing Proposal (*Also include the “Consultant Deliverables” Table*)
- ☐ Experience with DBE/MBE/WBE, Local Hiring, HUD Section 3, if applicable
- ☐ Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- ☐ Evidence of Insurance

#### **FORMS FROM RFQ PACKAGE TO RETURN:**

- ☐ References (Minimum 3 related projects)
- ☐ Certification of Authority
- ☐ W-9 Form
- ☐ Vendor Responsibility Questionnaire (if over \$100K in proposed contract value)
- ☐ Conflict of Interest Statement & Supporting Documentation
- ☐ Non-Collusive Bidding Certification
- ☐ Iran Divestment Act Compliance Form



## B. Letter of Interest

Submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

- The principal place of business and the contact person, title, telephone/fax numbers and email address.
- A brief summary of the qualifications of the Respondent and team.
- Description of organization (i.e. Professional Corporation, or Professional Limited Liability Company).
- The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
- If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
- If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
- The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest

## C. Other Preliminary Requirements

These documents must be submitted and acceptable before the Town will review the Experience and Capacity proposal:

1. Certificate of Good Standing (Corporation) or Certificate of Existence (Professional Limited Liability Company) issued by the NY Secretary of State
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; and, Automobile Liability with limits not less than \$1,000,000 per occurrence.
3. References: At least three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
4. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the Town. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

## D. Main Proposal

Please provide the following information in your Proposal:

1. **Qualifications Proposal**: Years of experience and detailed qualifications in performing the range of engineering, design & construction management on various project types in compliance with applicable standards, including team’s resumes. Please provide the number of full-time and part-

time employees. Past projects will be reviewed to determine if the respondent has successfully completed projects similar in nature and scope. Respondents should provide narrative examples of three (3) projects that are similar in nature to projects described in the RFQ (see “References”).

2. **Project Management Plan:** Provide a plan for engaging the Town’s project team and regulatory agencies required.
3. **Schedule Proposal:** Capacity to complete projects within the two-year time period to complete the project within the funding agencies defined period: **April 2018 – November 15, 2019.** The successful Respondent will have the project schedule, in a Gantt chart format, incorporated into the contract as an Exhibit.
4. **Cost Proposal:** This should include the lump sum/unit rates for different Tasks, per the table provided in **Appendix K, “Consultant Deliverables”**. Respondents may provide more information to describe their Cost Proposal, but the **Appendix K** is the minimum Submittal required. Labor cost estimates will include payments of prevailing wage rates as determined by the Department of Labor and Industries as applicable. The Respondent will assign hourly rates for all work and services to meet the requirements of this RFP.
5. **Funding Agency Experience:** Respondents should state whether they are an DBE/MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current DBE/MBE/WBE certification letter. Respondents may also cite previous project experience & discuss the experience in dealing with these requirements on similar on projects.

## EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, the Town will score base on **BEST VALUE** take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

The point system is to evaluate the experience and capacity of the Respondent.

1. Respondents will be awarded up to **20 points** for **Experience**, including professional qualifications, staffing, and client references.
2. Respondents will be awarded up to **15 points** for the efficiencies identified in their **Project Management Plan**.
3. Respondents will be awarded up to **25 points** for their Capacity to meet **Project Constraints**.
4. Respondents will be awarded up to **25 points** for **Pricing and proposed Cost Savings**.
5. Respondents will be awarded up to **15 points** for their experience in meeting **DBE/MBE/WBE, Davis-Bacon, and HUD Section 3 requirements and completing other CDBG-funded projects**.

## SELECTION PROCESS

The Selection Committee comprised of the Town and resources from Essex County staff will review qualifications in accordance with the evaluation criteria set forth herein. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any professional services contracts resulting from this RFP will not necessarily be awarded to the Respondent with the lowest price. Instead, professional services shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

## QUESTIONS

*Questions regarding this RFP* should be submitted in writing via email to **Robert Wick, PMP** at ([rwick@co.essex.ny.us](mailto:rwick@co.essex.ny.us)) between the hours of **0900 – 1500 only**. Any RFI responses will in turn be made available to all Respondents as they are received by means of direct emails.

*Site Visits* regarding the Water District #1 should be submitted via phone call to **Kevin Denton**, the Town Highway Superintendent @ **(518) 873-6455** between the hours of **0800 – 1400 only**.

## SUBMITTAL DUE DATE

**Responses to this RFP are due by 2:00pm on March 13, 2018.** RFP responses must be submitted via electronic PDF sent to the following web address:

**<https://app.smartsheet.com/b/form/ee04a4cb859a46d9bc0db11b052d3bb4>**

**The Town will read aloud all Proposal scores and select an Engineer on March 22<sup>nd</sup>, 2018 at a regular Board Meeting.**

If you run into technical difficulties providing your response by the web link above, it is also acceptable to submit your RFP responses in writing via email, OR mail-in digital files (.PDF format) on flash-drive to the RFP point of contact:

**Rob Wick, PMP**  
Project Management Specialist  
Essex County Office of Community Resources  
7533 Court Street – PO Box 217  
Elizabethtown, NY 12932  
**[CommunityResources@co.essex.ny.us](mailto:CommunityResources@co.essex.ny.us)**  
**(518) 873-3426**

Each Respondent shall receive a confirmation of their submission via email, regardless of manner of RFP response. Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals. **NO HARD COPIES WILL BE ACCEPTED.**

## **RFP SUBMITTAL REQUIREMENTS CHECKLIST**

### **FOR THE RESPONDENT TO PROVIDE:**

- ☐ RFP Submittal Requirements Checklist (*Provide Checklist with RFP Response*)
- ☐ Letter of Interest
- ☐ Qualifications Proposal
  - Description of Company
  - Capacity of Company
  - State License and or Certification
- ☐ Project Management Plan (*Describe your approach in detail*)
- ☐ Schedule Proposal (*Provide in a Gantt Chart format*)
- ☐ Pricing Proposal (*Also include the “Consultant Deliverables” Table*)
- ☐ Experience with DBE/MBE/WBE, Local Hiring, HUD Section 3, if applicable
- ☐ Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- ☐ Evidence of Insurance

### **FORMS FROM RFQ PACKAGE:**

- ☐ References (Minimum 3 related projects)
- ☐ Certification of Authority
- ☐ W-9 Form
- ☐ Vendor Responsibility Questionnaire (if over \$100K in proposed contract value)
- ☐ Conflict of Interest Statement & Supporting Documentation
- ☐ Non-Collusive Bidding Certification
- ☐ Iran Divestment Act Compliance Form

## **APPENDIX A: LEWIS WATER REPORT 2017**

## **APPENDIX B: CDBG PROGRAM REQUIREMENTS**

## **APPENDIX C: ENGINEER REFERENCES**



## **APPENDIX D: CONFLICT OF INTEREST STATEMENT**

## **APPENDIX E: CERTIFICATE OF AUTHORITY**

## **APPENDIX F: VENDOR RESPONSIBILITY QUESTIONNAIRE**

## **APPENDIX G: W-9 FORM**

## **APPENDIX H: NON-COLLUSION AFFIDAVIT**

## **APPENDIX I: IRAN DIVESTMENT ACT COMPLIANCE**

## **APPENDIX J: TOWN OF LEWIS APPROVED SPECIFICATIONS**

## APPENDIX K: SCHEDULE OF VALUES FOR COST PROPOSAL

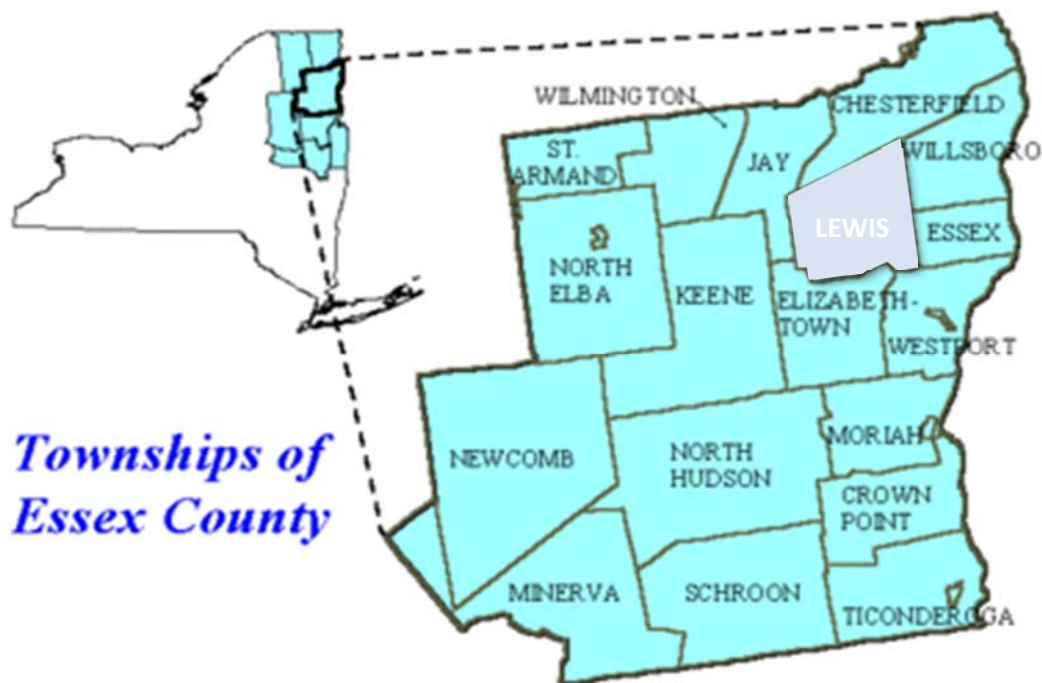
DELIVERABLES	LUMP SUM PROPOSED:	HOURS OF LABOR:
<b>GENERAL REQUIREMENTS</b>		
Task 1) Project Schedule & Project Management		
Task 2) Project Coordination Meetings ( <i>incl. MILEAGE</i> )		
Task 3) Consultant CDBG Program Requirements & Reporting		
Task 4) Local Agency Permitting: County Highway, Zoning, etc.		
Task 5) State Agency Permitting: NYS DOT, NYS DEC, NYS DOH, NYS DOL, APA, SHPO, THPO, etc.		
Task 6) Federal Agency Permitting: ACOE, EPA, HUD/OCR, NEPA, USFWS, etc.		
<b>SCHEMATIC DESIGN PHASE</b>		
Task 7) Data Collection & Review (not Surveys)		
Task 8) Preliminary Designs		
Task 9) Schematic Designs		
<b>FINAL DESIGN PHASE</b>		
Task 10) Final Designs		
Task 11) Regulatory Agency Coordination for Plans & Specs		
<b>BIDDING PHASE</b>		
Task 12) Provide CDBG Compliant Construction Documents ( <i>incl. PRINTING</i> )		
Task 13) Advertise for Bidding, provide Bid Response Services ( <i>incl. PUBLISHING</i> )		
Task 14) Tabulate Bid Results		
<b>CONSTRUCTION ADMIN PHASE</b>		
Task 15) Preconstruction Conference		
Task 16) Construction Period Services: Technical Analysis & Contractor Payments/Submittals		
Task 17) Program Management for Owner: CDBG Compliance through Construction		
<b>POST CONSTRUCTION PHASE</b>		
Task 18) Punch List with Contractor		
Task 19) Codes & Compliance Review: Closeout Checklist		
Task 20) Closeout Checklist		
<b>ALTERNATE: RPR SERVICES</b>		
Task 21) 12 Weeks of RPR Services		
<b>REIMBURSABLES</b>		
Task 22) Surveys & Base Mapping		
Task 23) Archaeological Evaluations		
Task 24) Geotechnical Evaluations		



## **APPENDIX L: DRAFT FORM OF CONTRACT (EJCDC)**

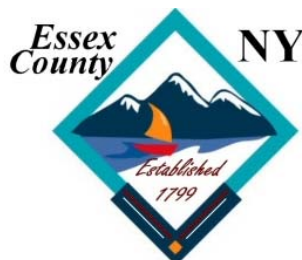
# 2017 WATER SYSTEM EVALUATION

Town of Lewis, Water District 1, Essex County NY



## Abstract

*Following two decades of water system improvement projects the Town of Lewis has experienced multiple water main breaks affecting both the cost and methods of operation. The result is impaired flushing or use hydrants and pending liability of service interruptions for the Town of Lewis and critical Emergency Services and Correctional facilities owned by Essex County.*



*Prepared by: Todd C. Hodgson, P.E.  
Environmental Mgr.  
Essex County DPW*

## Contents

1. Introduction .....	2
1.1. Purpose .....	2
1.2. Background .....	2
2. Investigations .....	5
2.1. Water System Demands and Service Area.....	5
2.2. Distribution System Investigations .....	6
3. Distribution System Evaluation.....	9
3.1. Osawentha Drive (North).....	9
3.2. Route 9 (South) .....	9
3.3. Fire Flow Analysis.....	10
4. Project Recommendations.....	11
4.1. Project Costs and Financing .....	11
4.2. Project Action Items.....	11

# 1. Introduction

## 1.1. Purpose

The Town of Lewis owns and operates a water system, consisting of a groundwater source, gravity storage, and distribution to Water District #1 and Extensions 1 & 2, serving a total an estimated population of 430 people, through 107 service connections, cited in the Town's Annual Water Quality Report. Various improvement projects have been made over the years, consisting of the replacement of the Town's source, the replacement of significant amounts of water main, and the addition of Water District #1, Extensions 1 & 2.

Currently the water system has suffered from operational issues involving water main breaks on one or more sections of the water system located in Water District #1. The effect of these breaks on the Service Area are largely significant service interruptions to the majority of the system, without the ability to isolate one section.

Due to concern for system reliability and a concern for the Town to maintain the existing debt payments for past projects, the Town authorized the Essex County Planning Department and the Essex County Department of Public Works to evaluate the water system specific to the water main break history and provide alternatives for addressing this health and safety issue effecting the entire water system.

## 1.2. Background

The following reports and documents are referenced providing the background data on the Lewis Water System, summarized as follows:

**"Town of Lewis, Water District No. 1, Lewis Water System Improvements, Engineering Report"** by Adirondack Professional Services, amended October 1992. Facility improvements generally consisted of a proposed well system to replace the existing unfiltered surface water supply (Spruce Mill Brook) with various water main replacements. Summary as follows:

- 1961 the Town of Lewis established the water district (Water District 1)
- At the time of reporting, 117 users were on the system, roughly 300 people.
- 1991 design values: 32,000 gpd average day, Max day 77,800 gpd.
- (4) wells were developed, yielding 41.8 gpm.
- 120,000 gallon storage tank for fire flow and daily storage.
- Project funding was apparently through Farmers Home Administration.
- 10" DI main proposed from reservoir site connecting into existing 8" AC main.
- 8" and 6" mains proposed to replace existing.
- Existing 6" pvc to remain, extending along NYS Route 9, South of Lewis-Wadhams Road.

**“Town of Lewis, Lewis Water System Improvements”** by Adirondack Professional Services, 1992.

Facility improvements generally consisted of a proposed well system to replace the existing unfiltered surface water supply (Spruce Mill Brook) with various water main replacements.

- Wells Hill Road: Installation of 10” DI water main to connect to existing 8” AC.
- NYS Route 9: Replacement of existing section from Osawentha to Lewis-Wadhams Road with 8” DI.
- Osawentha Drive: Replacement of roughly half of this section with 8” DI.
- Route 9 (North): Installation of 6” DI
- Stowersville Road: Installation of 6” DI
- 120,000 gallon water storage tank
- (6) wells for ground water system to replace prior surface water supply

**“Engineering Report of Water District 1, Water System Improvements”** by AES Northeast, February 2002. Facility improvements generally consisted of a proposed water source and select distribution mains for connecting the source. The following is a summary:

- Average day flow: 30,300 gpd, with a peak day flow of 84,900 gpd
- Design flow: 40,000 gpd
- Design fire flow: 1,500 gpm (storage identified as inadequate)
- Available well yield, of 576,000 gpd was identified. 400 gpm for long term pumping and up to 500 gpm for short term pumping periods (filling the tank). 150 gpm design pumping rate was used for well field control building
- Water Modeling was performed for the entire district, resulting in updating of some of the water distribution system to 12” DI pipe.

**“Town of Lewis, Lewis Water System Improvements”** by AES Northeast, 5/22/02. Facility improvements generally consisted of a new water source (2) sand and gravel wells roughly 180 gpm each, well field control building, and extensive water main replacements.

- 5200 ft of 6” and 12” main along NYS Rt. 9 (6” from plant, connecting into existing, 12” from Wells Hill into hamlet area, partial replacement)
- 2900 ft of 12” main up Wells Hill Road (Connect to existing 10” tank water main, partial replacement)
- 1267 ft of 6” DI along the Lewis Wadhams Road. (Complete Replacement)
- 1050 ft of 6” DI along Essex County Rt. 12 (Stowersville Rd) – complete replacement at that time.

**“Engineering Map Plan and Report for the Town of Lewis Water District #1, Extension #1”** by AES Northeast, December 2004. Facility improvements generally consisted of a proposed water system extension to the Essex County Public Safety Building. The following is a summary:

- Public safety building peak day flow: 26,800 gpd, with a peak hourly flow of 4,600 gph
- Water Storage increased from previous 120,000 gal to 300,000 gallons to meet 240,000 gal ISO fire storage needs.
- Minimum Fire Flow requirements identified by outside consultant of 1,000 gpm for the Public Safety building, and 2,000 gpm for the community.

- Available well yield, of 576,000 gpd was identified. 400 gpm for long term pumping and up to 500 gpm for short term pumping periods (filling the tank). No capacity issues identified, water supply permit amended.

**“Engineering Map Plan and Report for the Town of Lewis Water District #1, Extension #2”** by AES Northeast, October 2005. Facility improvements generally consisted of the extension of water service to Betty Beavers, off Extension #1. The following is a summary:

- Betty Beavers Design Flows: 700 gpd
- Available well yield, of 576,000 gpd was identified. 400 gpm for long term pumping and up to 500 gpm for short term pumping periods (filling the tank). No capacity issues identified, water supply permit amended.

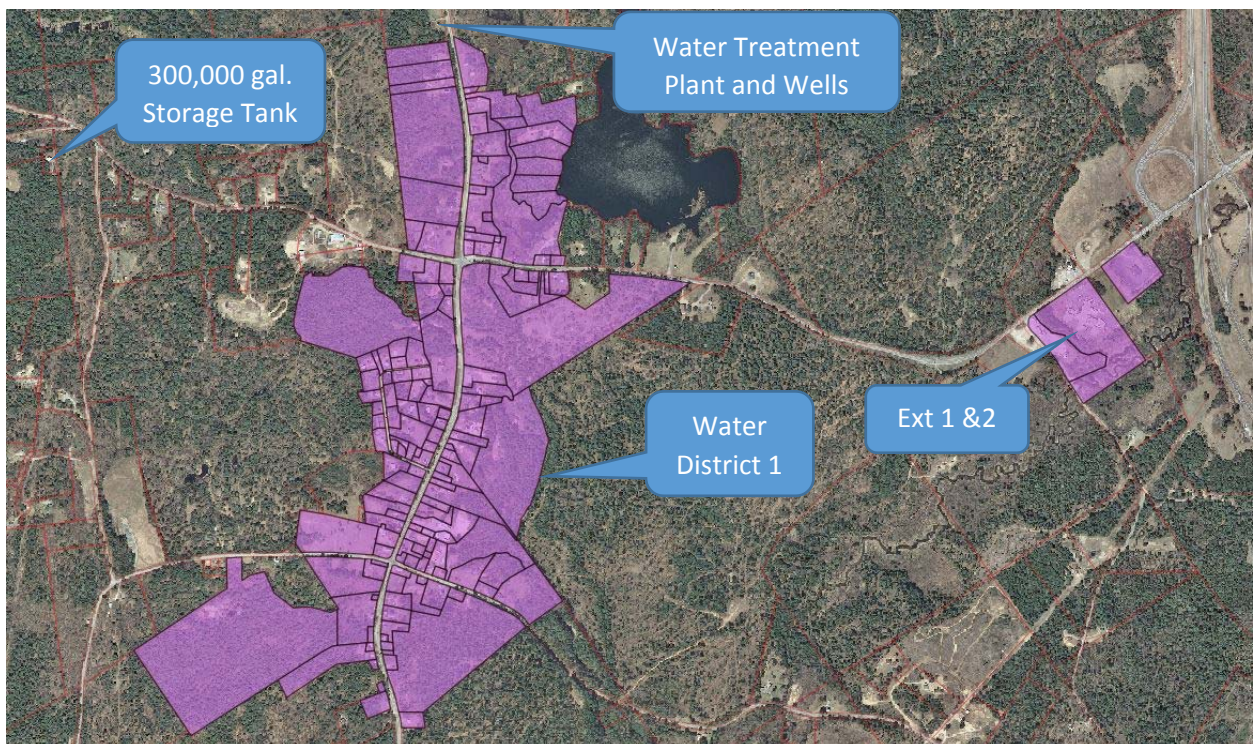
**“Town of Lewis, Lewis Water District Ext.1, Essex County Public Safety Building, Essex County, NY”** by AES Northeast, 9/24/04. Facility improvements generally consisted of an increase in service area to supply water to Essex County facilities as follows

- 6775 ft of 6” main along Essex County Rt. 12 (Stowersville Rd), (this was changed to an 8”)
- Reset hydraulic grade of elevated tank to 832 ft (overflow), floor elevation of 802 ft, with a total storage capacity of 300,000 gallons.
- Minor improvements to the existing well field control building for water quality instrumentation and communication with storage tank.

## 2. Investigations

### 2.1. Water System Demands and Service Area

The service area for the Lewis Water System, Water District 1 with Extensions 1 & 2 are shown in the figure below. The service area is generally linear, along NYS Route 9, and Stowersville Road, with various smaller branches off these alignments. As a result, it is difficult to isolate sections of the service area for maintenance and repair activities.



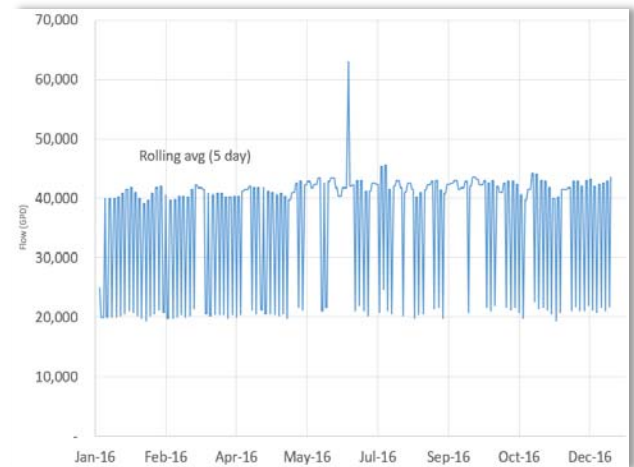
Monthly water reports for the Lewis water system, Water District 1, with Extensions 1 & 2 were compiled by the Town for 2016. This data is summarized in the figure below. Being a drought year, water usage data and well yield data are anticipated to be conservative in comparison to average annual conditions for the water system.



The following flow conditions are summarized from the 2016 monthly operations reports as follows:

- Average Daily Flow: 36,224 gpd
- Peak Day flow: 63,000 gpd (5 day rolling average – no daily pumping)

Based on prior operations reporting, the well pumping capacity of roughly 180 gpm for each well, the reported yield of the aquifer of 400 gpm or 576,000 gpd, no capacity issues appear to exist for the water system in meeting current demands of the Service Area.



## 2.2. Distribution System Investigations

Based on prior reporting and review of existing water main replacement projects, much of the water system has been updated in 1992, 2002, and 2005, replacing substandard mains and alleviating NYS DOH low pressure problems and inadequate fire protection issues. The following is summary of water main conditions:

- Wells Hill Road: 10" DI from Tank circa 1992. 12" from the end of the 10" to the intersection with NYS DOT Rt. 9. (Relatively new – good condition)
- NYS Route 9: 6" main from well field control building installed in 2002, connecting in with existing 6", circa 1992. 12" along main hamlet area connecting into an existing 8" DI circa 1992 to the Lewis Wadhams Road.
- **NYS Route 9 (South of Lewis Wadhams Road): 6" PVC purported 1960's vintage.**
- Stowersville Road: Replacement in 1992 with 6" DI, with the remaining main installed to Ext 1 and 2, consisting of 8" DI installed in 2005.
- Lewis Wadhams Road: Replaced in 2002 with 6" DI.
- Osawentha Drive: Roughly half of this loop was replaced in 1992 with 8" DI. **The remaining half consists of 6" PVC of some type, purported to have been installed in the 1960's.**



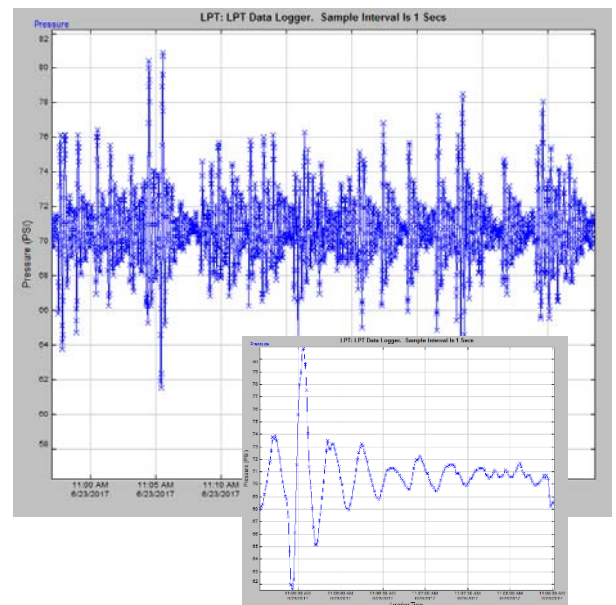
The two sections in bold above, remain as areas of concern for the Town of Lewis. This concern is not based solely on age, but due mainly to the pipe type being a very early installation of PVC. The type of PVC used was a schedule 40 glue joint pipe, which is not acceptable practice based on later experience with this pipe material type. Without flexible pipe joints the relatively brittle material does not take the expansion and contraction of pressure fluctuations and ground movement, often resulting in catastrophic leaks, difficult to repair. Also not practiced were proper pipe thrust restraints and increased pipe bedding requirements for plastic pipe, evident in Photo 1 (right).



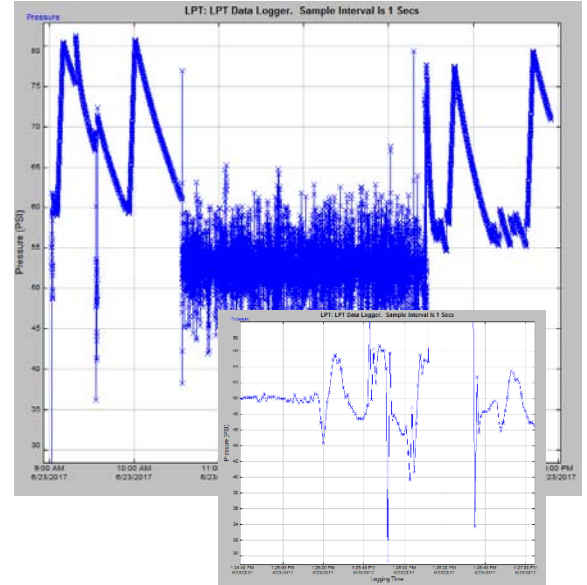
**PHOTO 1 - PVC WATER MAIN (ROUTE 9 SOUTH)**

Based on the history of the system, and the problematic water main breaks of the area, pressure monitoring was performed to investigate operating conditions within the water system. Monitors were placed in the vicinity of both water main sections, Route 9 (South) and Osawentha (North). The results are summarized as follows:

**Osawentha (North):** Pressure monitoring was conducted at the nearby Highway Garage, logged at 1 second intervals for roughly 6 hrs. Pressure fluctuations recorded for this period were between 60-80psi, a 20 psi differential which is considered high for a main line pressure fluctuations, with constant movement. Though the reason for the pressure fluctuations has not yet been identified, the results unfortunately have.



**Route 9 (South):** Pressure monitoring for this section was conducted near the end of the line at the same time and duration conducted for the above section. Pressure fluctuations for this section ranged between 26 psi to 82 psi, yielding a 56 psi pressure differential, which is considered very high. Again, the system pressure exhibits constant movement which is a problem for piping that is not capable of expansion and contraction related forces, resulting in undue fatigue, particularly in plastic piping. Also noted was a very peculiar pressure fluctuation which is anticipated to be related to a residential booster pump, likely due to the long service lateral. The wider fluctuation in system pressure is more than likely a result of dead end reflection of mainline pressure fluctuations.

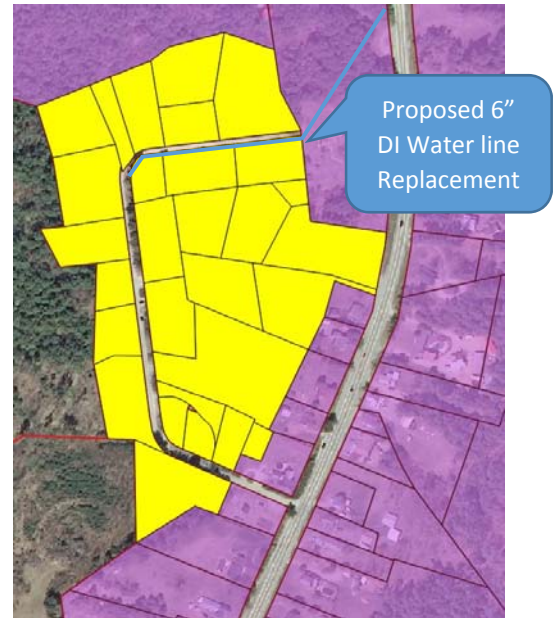


### 3. Distribution System Evaluation

#### 3.1. Osawentha Drive (North)

Based on the prior water system documentation, this section of water main is a portion of a loop serving only the Osawentha Drive area, the Southern portion of which is an 8" DI main installed in 1992. The service area is approximately 29 residences as indicated in figure (right). **Table 3.1** following the end of this document contains a list of parcels. The section of 6" water main in question is approximately 1,120 ft in length.

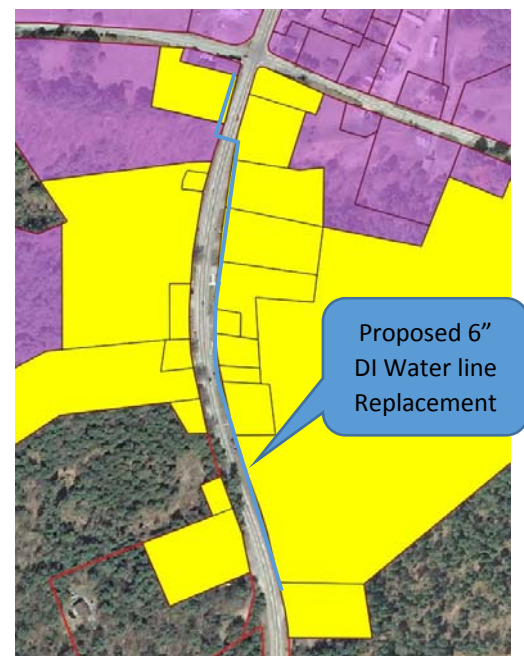
Options available to the Town for addressing this problematic area of concern are to (1) maintain the existing and deal with the hazard of catastrophic breaks due to the substandard pipe or (2) replace the existing pipe to meet current codes and standards. As the first option results in both health and safety issues for not only the residences of Osawentha Drive and the potential shut down of this entire section of the water system, only Option 2 can be recommended.



#### 3.2. Route 9 (South)

This section of water main extending South on Route 9, also of the same vintage of 6" PVC, serves only the service area the existing main traverses, being roughly 1,444 ft. Based on water service areas provided by the Town of Lewis, the service area consists of 15 residential service connections, one of which is an Essex County Facilities Inc. home. This is generally shown in the figure (right). **Table 3.2** following the end of this document contains a list of parcels.

In particular to the Essex County Facilities Inc. home, this residential home relies more significantly on the water system requiring functional fire suppression for the operation of the facilities, without which insurance and liability protection is in jeopardy. Based on the condition of the water main on the end of the line, with pressure fluctuations water operations staff prohibit the use of the only available hydrant serving this facility.



Options available as stated in the section above are very limited consisting of (1) maintain of existing and dealing with the resulting liabilities and hazards for water main breaks and interruptions of service, or (2) replacement of the existing main to meet current codes and standards. Once again, this type of pipe fails catastrophically, resulting in health and safety issues for the service area and the entire water district, only option 2 can be recommended and acted on, based on the conditions and investigations conducted.

It should be noted that the Essex County Public Safety Building is a part of Extension #1, which houses New York State Police, Essex County Sheriff Department, Essex County Correctional Facilities, Essex County Emergency Services and the 911 call center. Both the water source and water storage flow through Water District #1 in route to Extension 1 & 2. If Water District #1 is compromised, so is the Essex County Public Safety Building.

### 3.3. Fire Flow Analysis

Prior reporting conducted by AES Northeast, both in 2002 for the proposed improvements that are characteristic of the current water system modeling and performance, with updates provided in 2004, provide the fire flow analysis and water main sizing for the water system. Based on the modeling the existing water main sized of 6" generally supports the residential fire flow requirements of 500 to 750 gpm for rural to residential fire flow needs. Fire flow analysis provided from these reports are as follows:

- Osawentha Drive: (J-11) 1,738 gpm, required fire flow estimated at 750 gpm for residential areas.
- Route 9 (South): (J-27) 894 gpm required fire flow estimated at 750 gpm for residential areas. (J-33) 697 gpm required fire flow estimated at 500 gpm for rural areas.

## 4. Project Recommendations

### 4.1. Project Costs and Financing

Project costs were compiled for both the Osawentha Drive project area and the Route 9 (South) project area, based on the need for replacement of these critical sections. The following is a summary of Table 4.1 and Table 4.2 in the following section of this report:

**Osawentha Drive:** Construction Cost \$ 465,331, **Total Cost \$588,643**

**Route 9 (South):** Construction Cost \$ 632,376, **Total Cost \$799,955**

**Total Cost: \$1,388,599**

If the Town secured a 20 year loan with an estimated interest rate of 3.875 %, the annual debt payment would be \$ 79,088.52 per year. Based on the purported 107 users on the water system, the annual debt payment per user for financing both projects would be \$ 739.15 per user, per year (in addition to existing user rate debt payment and operations and maintenance costs).

Experience and Knowledge with NYS Environmental Facilities Corporation funding opportunities through the Drinking Water State Revolving Fund. A Water Main Replacement most likely will not score high enough for any other funding package through EFC. A 0% Loan /30-year Finance option will not be available due to the nature and scope of the project. Therefore, Grant potential (Hardship) is not available.

### 4.2. Project Action Items

Based on the findings to date, the following are recommendations for the Town of Lewis to take action on for addressing the needs of Water District #1:

- It is recommended that the Town of Lewis proceed with a submission of this report to NYS DOH for approval.
- It is recommended that the Town of Lewis conduct an income survey of the project planning areas, as these sections are their own benefit area. Sections of low income should be identified as they are also the most vulnerable to the economic impacts for a capital improvement project within Water District #1.
- As the Town has prioritized the Route 9 (South) portion of the project, it is recommend that the Town consider segregating the project depending on the funds available.
- The Town should consider in-kind services as a way to control costs, as these are only probable costs, using 2017 estimated values.
- The Town should investigate pressure issues within the water system.

# **Tables**

<b>Table 3.1</b>	<b>2017 Water System Evaluation, Town of Lewis, Water District #1, Essex County NY, Osawentha Drive (North) Service Area</b>
<b>Table 3.2</b>	<b>2017 Water System Evaluation, Town of Lewis, Water District #1, Essex County NY, Route 9 (South) Service Area</b>
<b>Table 4.1</b>	<b>2017 Water System Evaluation, Town of Lewis, Water District #1, Essex County NY, 6" Water Main Replacement along Osawentha Drive (North)</b>
<b>Table 4.2</b>	<b>2017 Water System Evaluation, Town of Lewis, Water District #1, Essex County NY, 6" Water Main Replacement along Route 9 (South)</b>
<b>Table 4.3</b>	<b>Town of Lewis Water District User Rates</b>

## **X. EXHIBITS**

4-1 Contract Provisions

4-2 Section 3 Rider

## EXHIBIT 4-1

### Contract Provisions

It is the responsibility of the Recipient to ensure that any of these applicable provisions are included in all contract documents. It is not acceptable for the provisions to just be photo copied and attached to the contract, but rather, the appropriate provision should be included in the appropriate contract section(s). **All contracts entered into or awarded by a Recipient shall contain the following provisions as applicable:**

1. **Equal Employment Opportunity** - All construction contracts awarded in excess of \$10,000 shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
2. **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)** - All contracts and subgrants in excess of \$2000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. All suspected or reported violations shall be reported to the Federal awarding agency.
3. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)** - When required by Federal grant program legislation, all construction contracts awarded by Recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The Recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. All suspected or reported violations shall be reported to the Federal awarding agency.
4. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330)** - Where applicable, all construction contracts awarded in excess of \$100,000. Contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), as



supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous on federal and federally financed and assisted construction projects. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. **Patent Rights to Inventions Made Under a Contract or Agreement** - Contract agreements for the performance of experimental, developmental, or research work shall provide for the patent rights of the Federal Government and the Recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
6. **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended** - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
7. **Section 312 U.S.C. 1701u of The Housing and Community Development Act of 1968, as amended** - All contracts subject to Section 3 shall include the clause set forth at 24 CFR 135.38 as provided in the Section 3 Rider.
8. The following provisions shall also be included in all contracts.
  - a. Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances by which a contractor violates or breaches the contract terms, and provides for such remedial actions as may be appropriate.
  - b. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the Recipient, including the manner by which such termination shall be effected and the basis for settlement.
  - c. Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the Recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For

those contracts or subcontracts exceeding \$100,000, the OCR may accept the bonding policy and requirements of the Recipient, provided the OCR has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

- i. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of this bid, execute such contractual documents as may be required within the time specified.
  - ii. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  - iii. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.
  - iv. Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."
- d. All negotiated contracts awarded by Recipients or subrecipients shall include a provision to the effect that the Recipient or subrecipient, the OCR, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
  - e. All contracts shall contain a provision indemnifying the Housing Trust Fund Corporation, its agents and employees, from and against any and all claims, actions, damages, losses, expenses and costs of every nature and, including reasonable attorney's fees, incurred by or assessed or imposed against the Housing Trust Fund Corporation, to the fullest extent permitted by law, arising out of the project being funded with NYS CDBG funds.
  - f. All contracts shall contain a provision acknowledging that all parties shall be bound by, and comply with all applicable Federal, State, and local laws and regulations, including but not limited to, 24 CFR Parts 85 and 570.

## **EXHIBIT 4-2**

### **SECTION 3 RIDER**

Contractor must comply with and must ensure that the following language is included in all applicable subcontracts for work related to this Contract (the term “Contractor” as used herein shall also be deemed to mean “Subcontractor”):

1. Section 3 Clause (24 CFR 135.38)

- A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that Employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this Agreement agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediments that would prevent them from complying with the Part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understand, if any, a notice advising the labor organization or workers’ representative of the Contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 DFR Part 135. The Contractor will not subcontract with any Subcontractor where the Contractor has notice knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part

135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.

- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
  - G. With respect to work performed in connection with Section 3 covered Indian Housing Assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).
2. Contractor shall maintain such records, and complete and submit forms as may be amended from time to time, as required by the NYS Office of Community Renewal ("OCR") and/or HUD including but not limited to the Section 3 New Hires Report and the Section 3 Business Certification Package. Such forms shall be submitted in accordance with the directions contained therein and at such other times as the OCR and/or HUD may direct.

## CERTIFICATION OF EXPERIENCE

I, \_\_\_\_\_ HEREBY CERTIFY THAT (COMPANY \_\_\_\_\_  
\_\_\_\_\_ HAS PERFORMED THE FOLLOWING WORK WITHIN THE LAST  
THREE YEARS **UNLESS SPECIFIED DIFFERENTLY IN THE SPECIFICATION:**

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

-----

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

-----

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

-----

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

-----

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

-----

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

## APPENDIX D: CONFLICT OF INTEREST STATEMENT

\_\_\_\_\_ (“Respondent”)

### Conflict of Interest Statement

The owner(s), corporate members or employees of [Respondent], shall derive any personal profit or gain, directly or indirectly, by reason of his or her participation with the [the Town of Lewis]. Each individual shall disclose to the [the Town of Lewis] any personal interest or direct relationship which he or she may have and shall refrain from participation in any decision making in related manners.

Any owner, corporate member or employee of [Respondent] who is an officer, board member, a committee member or staff member of a related organization shall identify his or her affiliation with such agency or agencies; further, in connection with any policy committee or board action specifically associated with [the Town of Lewis], he/she shall not participate in the decision affecting that entity and the decision must be made and/or ratified by the full board. At this time, I am a Board member, a committee member, or an employee of the following organizations/companies:

---

---

---

Now this is to certify that I, except as described below, am not now nor at any time during the past year have been:

1) A participant, directly or indirectly, in any arrangement, agreement, investment, or other activity with any vendor, supplier, or other party; doing business with the [the Town of Lewis] which has resulted or could result in person benefit to me.

2) A recipient, directly or indirectly, of any salary payments or loans or gifts of any kind or any free service or discounts or other fees from or on behalf of any person or organization engaged in any transaction with the [the Town].

Any exceptions to 1 or 2 above are stated below with a full description of the transactions and of the interest, whether direct or indirect, which I have (or have had during the past year) in the persons or organizations having transactions with the [the Town of Lewis].

---

---

---

**Respondent:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Printed name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_  
(Officer other than officer executing proposal documents)

certify that I am the \_\_\_\_\_ of the \_\_\_\_\_  
(Title) (Name of Contractor)

\_\_\_\_\_ a corporation, duly organized and in good standing under the  
\_\_\_\_\_  
(Law under which organized, e.g., the New York Business Corporation Law)

named in the foregoing agreement; that \_\_\_\_\_  
(Person executing proposal documents)

who signed said agreement on behalf of the Contractor was, at the time of execution,  
\_\_\_\_\_ of the Contractor; that said agreement was duly signed for  
(Title of such person)

and in behalf of said Contractor by authority of its Board of Directors, thereunto duly authorized, and that  
such authority is in full force and effect at the date hereof.

\_\_\_\_\_  
Signature Corporate Seal

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_  
\_\_\_\_\_ to me known, and known to me to be the \_\_\_\_\_  
(Title) of \_\_\_\_\_ the corporation described in  
and which executed the above certificate, who being by me duly sworn did depose and say that he, the said \_\_\_\_\_  
\_\_\_\_\_ resides at \_\_\_\_\_, and that he is \_\_\_\_\_  
\_\_\_\_\_ of said corporation and knows the corporate seal of the said corporation; that the  
seal affixed to the above certificate is such corporate seal and that it was so affixed by order of the Board of  
Directors of said corporation, and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public County

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

**COMPLETION & CERTIFICATION**

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

**NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)**

The Vendor ID 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 Vendor ID, contact the IT Service Desk at [ITServiceDesk@osc.state.ny.us](mailto:ITServiceDesk@osc.state.ny.us) or call 866-370-4672.

**DEFINITIONS**

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf). 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 is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

**REPORTING ENTITY**

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

**ASSOCIATED ENTITY**

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does not include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

**STRUCTURE OF THE QUESTIONNAIRE**

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.



**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>I. LEGAL BUSINESS ENTITY INFORMATION</b>			
<u>Legal Business Entity Name</u> *		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone ext.	Fax
Email		Website	
Additional <u>Legal 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 and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u> )		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company</u> ( <u>LLC</u> or <u>PLLC</u> )		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u> )		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States    State    _____			
<input type="checkbox"/> Other            Country    _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number			

\*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf).

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**I. LEGAL BUSINESS ENTITY INFORMATION**

- 1.4 If the Legal Business Entity's Principal Place of Business is not in New York State, does the Legal Business Entity maintain an office in New York State?  
(Select "N/A," if Principal Place of Business is in New York State.)
- ☐ Yes   ☐ No  
☐ N/A

If "Yes," provide the address and telephone number for one office located in New York State.

- 1.5 Is the Legal Business Entity a New York State certified Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), New York State Small Business (SB) or a federally certified Disadvantaged Business Enterprise (DBE)?
- ☐ Yes   ☐ No
- If "Yes," check all that apply:
- ☐ New York State certified Minority-Owned Business Enterprise (MBE)
- ☐ New York State certified Women-Owned Business Enterprise (WBE)
- ☐ New York State Small Business (SB)
- ☐ Federally certified Disadvantaged Business Enterprise (DBE)

- 1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership (Enter 0% if not applicable)

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**II. REPORTING ENTITY INFORMATION**

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

☐ Legal Business Entity

*Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)*

☐ Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF "REPORTING ENTITY" AND "ORGANIZATIONAL UNIT" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

*Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)*

**IDENTIFYING INFORMATION**

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

☐ Yes ☐ No

If "Yes," enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.  
*For each person, include name and title. Attach additional pages if necessary.*

Name	Title

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**INSTRUCTIONS FOR SECTIONS III THROUGH VII**

For each "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each "Other," provide an explanation which provides the basis for not definitively responding "Yes" or "No." Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

**III. LEADERSHIP INTEGRITY**

*Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:*

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any government contracting process?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each "Yes" or "Other" explain:

**IV. INTEGRITY – CONTRACT BIDDING**

*Within the past five (5) years, has the reporting entity:*

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each "Yes," explain:

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**V. INTEGRITY – CONTRACT AWARD***Within the past five (5) years, has the reporting entity:*

- |   |  |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?     | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each "Yes," explain:

**VI. CERTIFICATIONS/LICENSES***Within the past five (5) years, has the reporting entity:*

- |   |  |
|---|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each "Yes," explain:

**VII. LEGAL PROCEEDINGS***Within the past five (5) years, has the reporting entity:*

- |  |  |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:<br>a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or<br>b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each "Yes," explain:

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY</b>	
<b>8.0</b> Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, 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.	
<b>8.1</b> Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.2</b> Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's 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.	
<b>8.3</b> In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
<b>8.4</b> During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal</u> , state or local tax laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
<b>8.5</b> During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and 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.	
<b>8.6</b> During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, 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.	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>IX. ASSOCIATED ENTITIES</b> <i>This section pertains to any entity(ies) that either controls or is controlled by the <u>reporting entity</u>.          (See definition of "<u>associated entity</u>" for additional information to complete this section.)</i>	
<b>9.0</b> Does the <u>Reporting Entity</u> have any <u>Associated Entities</u> ? Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either: – An <u>Organizational Unit</u> ; or – The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>9.1</b> Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the <u>Associated Entity</u> , his/her relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
<b>9.2</b> Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u> , New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u> , primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the Lien holder or Claimant's 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.	
<b>9.3</b> Within the past five (5) years, has any <u>Associated Entity</u> :	
a) Been <u>disqualified</u> , <u>suspended</u> or <u>debarred</u> from any <u>federal</u> , New York State, New York City or other New York local government contracting process?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c) Been <u>suspended</u> , <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u> ) on any <u>federal</u> , New York State, New York City or New York local <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d) Been the subject of an <u>investigation</u> , whether open or closed, by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e) Been the subject of an indictment, grant of immunity, <u>judgment</u> , or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u> , primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, 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.	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**X. FREEDOM OF INFORMATION LAW (FOIL)**

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).  
Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.

☐ Yes ☐ No

If "Yes," indicate the question number(s) and explain the basis for the claim.

**XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE**

Name	Telephone ext.	Fax
Title	Email	



**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**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

**CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT**

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, \_\_\_\_\_, being duly sworn, deposes and says that he/she is the  
\_\_\_\_\_ of the \_\_\_\_\_ Corporation and  
that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

\_\_\_\_\_  
SIGNED

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

## NON-COLLUSIVE BIDDING CERTIFICATION

1. By submission of this bid, the undersigned bidder and each person signing on behalf of such 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 the undersigned's knowledge and belief:

(a) The prices in 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.

2. The undersigned acknowledges and agrees that a bid shall not be considered for award nor shall any award be made where any of the above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where one or more of the above has/have not been complied with, the bid shall not be considered for award nor shall any award be made unless the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

3. The undersigned also acknowledges and agrees that the fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph 1 above.

4. The undersigned further acknowledges and agrees that any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a bidder which is a corporation or a limited liability company for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in paragraph 1 of this certificate, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation or limited liability company.

Name of Bidder: \_\_\_\_\_  
(print full legal name)

Date Signed: \_\_\_\_\_ Signature: \_\_\_\_\_

Name of Person Signing Certificate: \_\_\_\_\_  
(print full legal name of signer)

Bidder is (check one): ☐ an individual, ☐ a limited liability partnership, ☐ a limited liability company,  
☐ other entity (specify): \_\_\_\_\_

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification: check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>	
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
				-						
or										
Employer identification number										
				-						

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form V-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.



**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>1</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of such sale.

## OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Name of Organization)

\_\_\_\_\_  
(Title of Person Signing)

\_\_\_\_\_  
(Signature)

## ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_)

) ss

COUNTY OF \_\_\_\_\_)

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

My Commission Expires: \_\_\_\_\_



## IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the New York State Education Department (AGENCY) receive information that a person is in violation of the above-referenced certification, AGENCY will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then AGENCY shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

AGENCY reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: : \_\_\_\_\_

# CONNECTIONS FOR COPPER OR PLASTIC SERVICE PIPE

## CORPORATION STOPS

SECTION

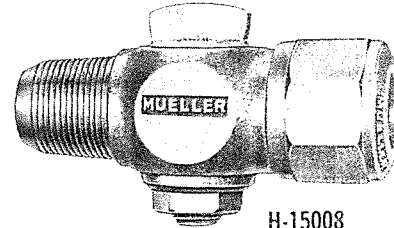
3

H-15008: Corporation Stop

Inlet: MUELLER® Thread

Outlet: MUELLER 110® Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having same O.D.

Size: 3/4", 1"



H-15008

H-15009: Corporation Stop (not illustrated)

Inlet: MUELLER® Thread

Outlet: MUELLER 110® Conductive Compression Connection for P.E. Plastic Pipe ASTM D-2239 or NBS PS11-69 (SDR-7) 160 psi

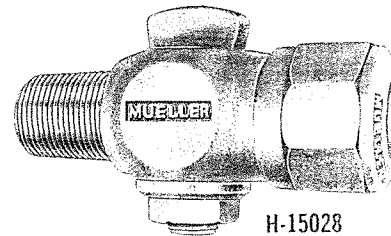
Size: 3/4", 1"

H-15028: Corporation Stop

Inlet: Iron Pipe Thread

Outlet: MUELLER 110® Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having same O.D.

Size: 3/4", 1"



H-15028

H-15029: Corporation Stop (not illustrated)

Inlet: Iron Pipe Thread

Outlet: MUELLER 110® Conductive Compression Connection for P.E. Plastic Pipe ASTM D-2239 or NBS PS11-69 (SDR-7) 160 psi

Size: 3/4", 1"

Due to the characteristics of plastic, it is necessary to use a rigid metal liner inside the end of the plastic pipe to prevent the pipe from collapsing as the compression connection is tightened. Order separate stainless steel liners from the chart on Page 5-18, according to size of plastic pipe.

SIZE OF CORPORATION STOP AND TYPE OUTLET	3/4" TYPE K COPPER	1" TYPE K COPPER	3/4" PE 160 psi	1" PE 160 psi
<b>EQUIPMENT FOR TAPPING MACHINES (Section 1)</b>				
Combined Drill & Tap Size*	3/4"	1"	3/4"	1"
B-100 Screw Plug	89403	89404	89404	89741
"B" and A-2 Screw Plug	89401	89402	89402	89742
<b>EQUIPMENT FOR DRILLING MACHINES (Section 2)</b>				
E-4 or E-5 Machine Adapter Nipple†	504106	504107	504107	505139
D-4 Machine Adapter Nipple	504491	504492	504492	505138
Gasket	503675	504108	504108	505140
Maximum Drill Size	1 1/16"	1 1/8"	1 1/8"	1 1/8"
E-4 or E-5 Cutter (Plastic Mains)†	89488	581280***	89488	581280***
<b>EQUIPMENT FOR PL DRILLING MACHINE (Section 2)</b>				
Adapter	504972	504973	504973	505797
Gasket	503675	504108	504108	505140
Cutter	1 1/16" 581537	1 1/8" 581539**	1 1/8" 581537	1 1/8" 581539**

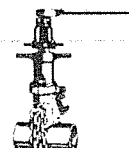
\*Select Combined Drill and Tap According to Size and Type of Inlet Thread on Corporation Stop.

\*\*For CC Inlet Corporation Stop. For I.P. Inlet Corporation Stop use 7/8" cutter, Number 581538.

\*\*\*For CC Inlet Corporation Stop. For I.P. Inlet Corporation Stop use 7/8" cutter, Number 581279.

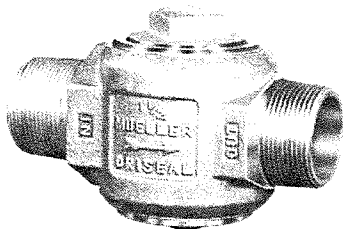
†It is recommended the E-4 or E-5 Drilling Machine be blocked to prevent clamp slippage on main.

ORDER BY QUANTITY, SIZE AND CATALOG NUMBER



**MUELLER CO.**  
**DECATUR, ILL.**

3-13a  
Rev.  
1-73



H-9968: MUELLER ORISEAL Corporation Valve

Inlet: MUELLER Thread

Outlet: Outside Iron Pipe Thread

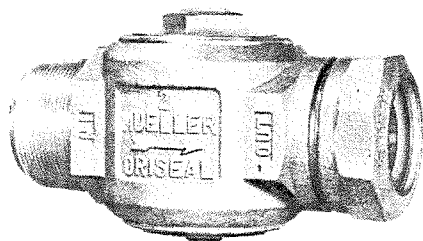
Sizes: 1 1/2", 2"

H-9969: MUELLER ORISEAL Corporation Valve

Inlet: Outside Iron Pipe Thread

Outlet: Outside Iron Pipe Thread

Sizes: 1 1/2", 2"\*



H-15013: MUELLER ORISEAL Corporation Valve

Inlet: MUELLER Thread

Outlet: MUELLER 110<sup>®</sup> Conductive Compression Connection for Type "K" Copper Service Tubing or Plastic Tubing† having the same O.D. - CTS

Sizes: 1 1/2", 2"

H-15023: MUELLER ORISEAL Corporation Valve

Inlet: Outside Iron Pipe Thread

Outlet: MUELLER 110 Conductive Compression Connection for Type "K" Copper Service Tubing or Plastic Tubing† having the same O.D. - CTS

Sizes: 1 1/2", 2"\*

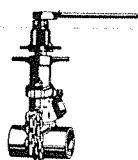
\*Note: The 2" H-9969 and H-15023 are not recommended for machine insertion — use with service clamps. See W-103 Catalog Section 6 for Service Clamps.

EQUIPMENT	SIZE AND TYPE OF OUTLET			
	1 1/2" Outside I.P.	2" Outside I.P.	1 1/2" MUELLER 110 Conductive Compression Connection - CTS O.D.	2" MUELLER 110 Conductive Compression Connection - CTS O.D.
Equipment For Tapping Machines (W-103 Catalog Section 1)				
"A" Machine Combined Drill & Tap**	1 1/2"	2"	1 1/2"	2"
"A" Machine E-Z Release Screw Plug	83065	83066	581763	581764
"A" Machine Extracting Tool	83179	83180	581765	581766
Equipment For Drilling Machines (W-103 Catalog Section 2)				
"D" Machine Adapter	36913	36525	507644	507645
Gasket	—	—	507646	507647
Maximum Drill Size	1 7/16"	1 7/8"	1 7/16"	1 7/8"
†Liners for CTS O.D. Polyethylene Plastic Service Tubing***—ASTM D-2737 (SDR 9)	—	—	506139	506141
†Liners for CTS O.D. Polybutylene Plastic Service Tubing***—ASTM D-2666 (SDR 13.5)	—	—	506140	506142

\*\*Select Combined Drill and Tap according to size and type of Corporation Valve Inlet Thread and type of Main. (See W-103 Catalog Section 1)

\*\*\*Due to the characteristics of plastic tubing, it is necessary to use a rigid liner inside the end of the plastic tubing when used with compression connections.

Note: When using copper tubing with the MUELLER 110 Compression Connection, be sure end of the copper tubing where the connection is made is round.



# CONNECTIONS FOR COPPER OR PLASTIC SERVICE PIPE

## SERVICE FITTINGS

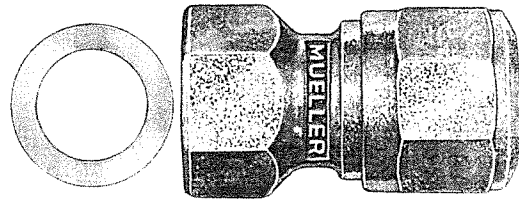
SECTION

5

**H-15071: Corporation Stop Straight Coupling with Gasket**

Copper Coupling Thread to 110® Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having the same O.D.

**Size:** 3/4", 1", 1 1/2"\*, 2"\*



**H-15071**

**H-15072: Corporation Stop Straight Coupling with Gasket (not illustrated)**

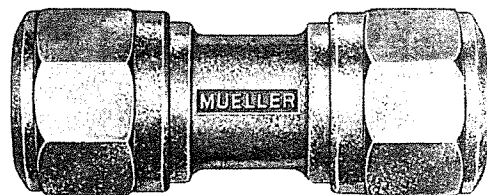
Copper Coupling Thread to 110® Conductive Compression Connection for P.E. Plastic Pipe ASTM D-2239 or NBS PS11-69 (SDR-7) 160 psi

**Size:** 3/4", 1"

**H-15403: Three Part Union**

110® Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having same O.D. to 110® Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having same O.D.

**Size:** 3/4", 1", 1 1/2"\*, 2"\*



**H-15403**

**H-15404: Three Part Union (not illustrated)**

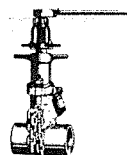
110® Conductive Compression Connection for P.E. Plastic Pipe ASTM D-2239 or NBS PS11-69 (SDR-7) 160 psi to 110® Conductive Compression Connection for P.E. Plastic Pipe ASTM D-2239 or NBS PS11-69 (SDR-7) 160 psi

**Size:** 3/4", 1"

Due to the characteristics of plastic, it is necessary to use a rigid metal liner inside the end of the plastic pipe to prevent the pipe from collapsing as the compression connection is tightened. Order separate stainless steel liners from the chart on Page 5-18, according to size of plastic pipe.

\*These sizes are for Type "K" Copper Service Pipe only.

ORDER BY QUANTITY, SIZE AND CATALOG NUMBER



**MUELLER CO.  
DECATUR, ILL.**

5-17a  
Rev.  
" 11"

# QUARTER TURN WITH CHECK SOLID TEE HEAD

# MARK II ORISEAL® VALVES

SECTION

7A

175 psi Water Working Pressure

175 psi Test Pressure. Every MARK II ORISEAL Valve is fully tested in both the open and closed position with 175 psi air pressure under water. This is a much more exacting test than a hydrostatic test.

180° F. Maximum Water Temperature Rating For Mueller 110® Compression Connection for Type "K" Copper Service Pipe Only.

The tee head has 1/4" hole for attaching lever handle. Open by turning to the left (counter-clockwise).

MARK II ORISEAL Valves comply with all applicable parts of the following standards and or specifications:

AWWA	C800-66
ASTM	B-62-70 (85-5-5-5)
ANSI	B2.1-68

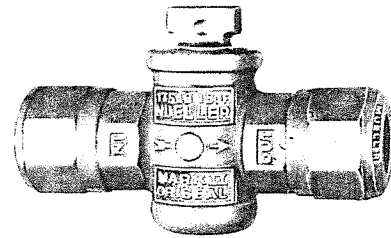
H-15209: MARK II ORISEAL Valve

H-15219: MARK II ORISEAL Valve with Drain (Not Illustrated)

Inlet: MUELLER 110 Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having the same O.D.

Outlet: MUELLER 110 Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having the same O.D.

Sizes: 3/4", 1"



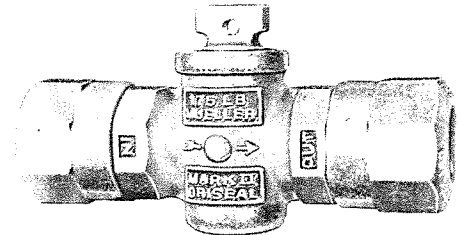
H-15211: MARK II ORISEAL Valve

H-15221: MARK II ORISEAL Valve with Drain (Not Illustrated)

Inlet: MUELLER 110 Compression Connection for P.E. Plastic Pipe\*

Outlet: MUELLER 110 Compression Connection for P.E. Plastic Pipe\*

Sizes: 3/4", 1"†



H-15172: MARK II ORISEAL Valve

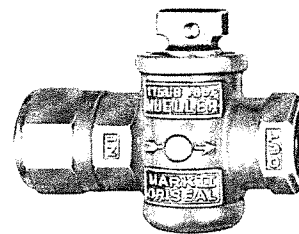
H-15182: MARK II ORISEAL Valve with Drain (Not Illustrated)

Inlet: MUELLER 110 Conductive Compression Connection for Type "K" Copper Service Pipe or Plastic Pipe having the same O.D.

Outlet: Inside I.P.

Sizes: 3/4", 1", 1 1/2"\*\*, 2"\*\*\*

\*\*1 1/2" and 2" Sizes available for H-15172 only and only Type "K" Copper Service Pipe May Be Used With 1 1/2" and 2" Sizes.

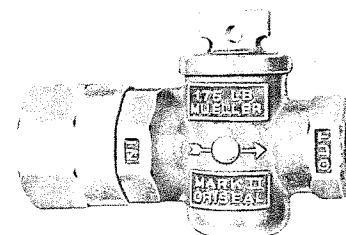


H-15171: MARK II ORISEAL Valve

Inlet: MUELLER 110 Compression Connection for P.E. Plastic Pipe\*

Outlet: Inside I.P.

Sizes: 3/4", 1"†



\*ASTM D-2239 or NBS PS-11-69 (SDR-7) 160 psi

Due to the characteristics of plastic, it is necessary to use a rigid metal liner inside the end of the plastic pipe to prevent the pipe from collapsing as the compression connection is tightened. Order separate stainless steel liners from the chart on Page 5-18, according to type and size of plastic pipe to be used.

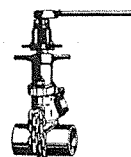
† See Page 7A-7

For Curb Boxes for these Valves see Section 9 of Catalog W-103.

For Straight Lever Handle, see Page 7A-2.

For Angle Lever Handle, see Page 7A-4.

ORDER BY QUANTITY, SIZE AND CATALOG NUMBER



**MUELLER CO.  
DECATUR, ILL.**

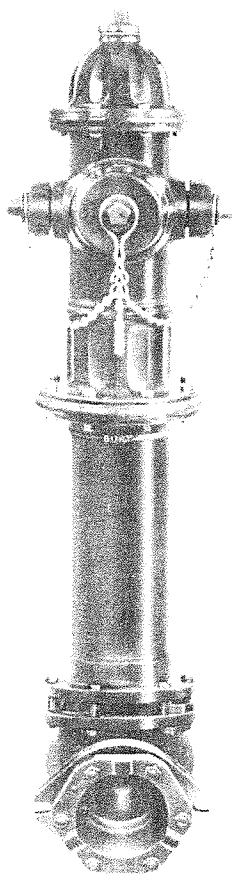
7A-5

Rev. 6-7:

# MUELLER® CENTURION® FIRE HYDRANT

## HYDRANTS AND END CONNECTIONS AVAILABLE

150 p.s.i. Working Pressure — 300 p.s.i. Test Pressure Compression type main valve closes with the pressure. Fully complies with American Water Works Association Standard C-502.



### TWO WAY

Nominal Size of Main Valve Opening	Catalog Number Two 2½" Hose Nozzles
4½"	A-420
5¼"	A-422

### THREE WAY

Nominal Size of Main Valve Opening	Catalog Number Two 2½" Hose Nozzles and One Pumper Nozzle
4½"	A-421
5¼"	A-423

Hydrant bury lengths are as follows:

1'6", 2'0", 2'6", 3'0", 3'6", 4'0", 4'6", 5'0", 5'6", 6'0", 6'6", 7'0", 7'6", 8'0", 8'6", 9'0", 9'6", 10'0".

NOTE: The above buries are all one piece. Longer buries are available.

### INLET CONNECTIONS

#### HUB OR BELL INLET

For a calked joint. Suitable for use on classes C and D or class 150 Cast Iron Spigot end pipe or other pipe with same O.D. Furnished with two strapping lugs.

#### FLANGED INLET

For Flanged end pipe or when used with an auxiliary gate valve. The flange is faced and drilled to the 125 lb. American Standard.

#### ASBESTOS-CEMENT (A-C) INLET

For use with Class 150 Asbestos-Cement pipe. Furnished with two strapping lugs.

#### MECHANICAL JOINT INLET

For use on Standardized Mechanical Joint pipe or other pipe having the same O.D. Furnished with the connecting gland, plain rubber gasket, and cast iron bolts and nuts, unless otherwise specified. Inlet has two strapping lugs. Can also be furnished on order with set screws in the gland for bonding, or with lead tipped gasket.

#### MUELLER® D-150 MECHANICAL JOINT INLET

This is an enlarged connection suitable for use with Class 150 Cast Iron Pipe or Class D Pit Cast pipe by using one of two type gaskets available. For Class 150 Cast Iron pipe use Duck Tipped Gasket. For Class D Pit Cast Pipe use Plain Rubber Gasket. Complete with gland, cast iron bolts and nuts, and either plain rubber or duck tipped gasket as specified. These gaskets and glands will not interchange with those on the Standardized Mechanical Joint. Can be furnished with set screws in the gland for bonding upon order. Inlet has two strapping lugs.

#### SLIP-ON\* JOINT INLET

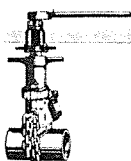
The Slip-On inlet connection will fit the plain end of all cast iron pipe, Classes 150, 200 and 250 manufactured to ANSI A21-6 and ANSI A21.8 including the plain end of all makes of cast iron pipe of the slip connection type. Inlet has two strapping lugs. Two gaskets are available. The regular Slip-On gasket or LOK-TYTON® gasket may be ordered. The LOK-TYTON gasket fits LOK-TYTON pipe and provides a positive lock against joint separation without the use of thrust block or tie rods.

\*The design and dimensions of this joint are manufactured under license of U.S. Pipe and Foundry Company.

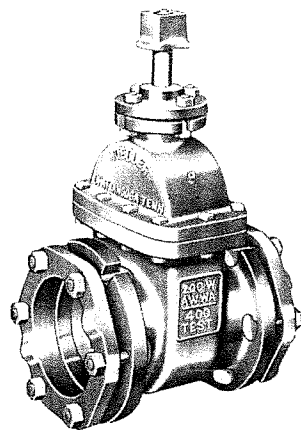
LOK-TYTON is a registered trademark of the U.S. Pipe and Foundry Company.

Size of Hydrant	SIZES AND TYPES OF INLET CONNECTIONS					
	Hub or Bell	Flanged	Asbestos-Cement	Mechanical Joint	D-150 Mechanical Joint	Slip-On
4½"	4" & 6"	4" & 6"	6"	4" & 6"	4" & 6"	6"
5¼"	4" & 6"	4" & 6"	6"	4" & 6"	4" & 6"	6"

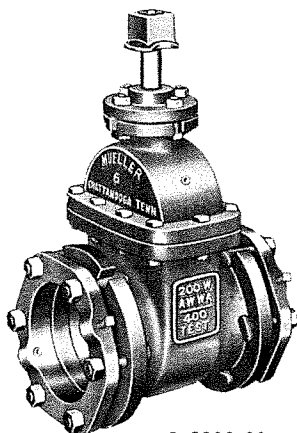
See Page 16A-7 for Parts Ordering Instructions.



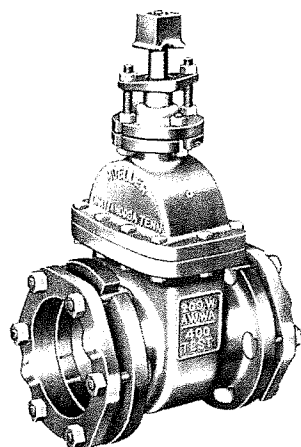
## AWWA GATE VALVES

NON-RISING STEM  
MECHANICAL JOINT ENDS

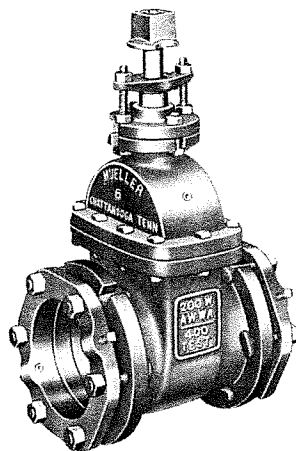
A-2380-20



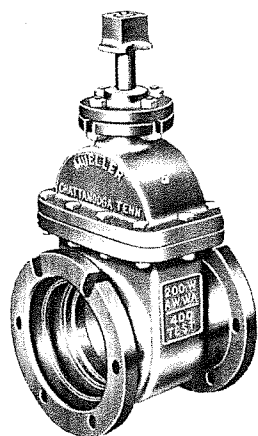
A-2380-22



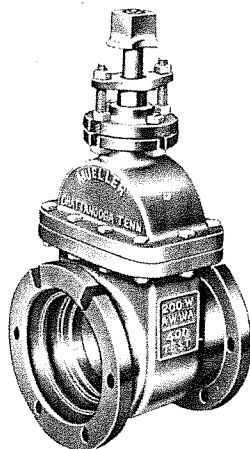
A-2480-20



A-2480-22



A-2380-23



A-2480-23

2"-12" 200 p.s.i. Working Pressure — 400 p.s.i. Test Pressure  
14"-30" 150 p.s.i. Working Pressure — 300 p.s.i. Test Pressure

A-2380-20: With Bolts, Glands and Rubber Gaskets  
With 2" Square Wrench Nut  
"O" Ring Seals

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16", 18", 20", 24", 30"

A-2380-21: Same as A-2380-20, except with Lead Tipped Gaskets

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16"

A-2380-22: Same as A-2380-20, except with Set Screws in Glands for Bonding

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16"

A-2480-20: With Bolts, Glands and Rubber Gaskets  
With 2" Square Wrench Nut  
Conventional Packing

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16", 18", 20", 24", 30"

A-2480-21: Same as A-2480-20, except with Lead Tipped Gaskets

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16"

A-2480-22: Same as A-2480-20, except with Set Screws in Glands for Bonding

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16"

A-2380-23: Without Bolts, Glands and Gaskets  
With 2" Square Wrench Nut  
"O" Ring Seals

Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16", 18", 20", 24", 30"

A-2480-23: Without Bolts, Glands and Gaskets  
With 2" Square Wrench Nut  
Conventional Packing

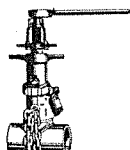
Sizes: 2", 2¼", 3", 4", 6", 8", 10", 12", 14", 16", 18", 20", 24", 30"

Valves 24" and larger should have Gearing and By-Pass. See Pages 18-14 and 18-15

Dimensional information on Pages 18-18, 18-19, 18-20, and 18-21.

For Valve Parts see Pages 18-22 and 18-23.

DIRECTIONS FOR ORDERING ON PAGE 18-25.



# RIGID STAINLESS STEEL LINERS FOR USE WITH PLASTIC PIPE

## SERVICE FITTINGS

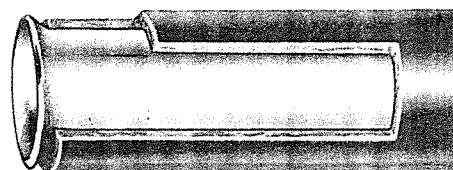
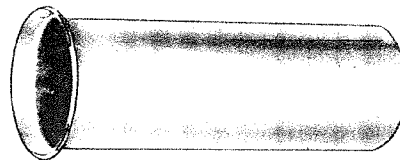
SECTION

5

Due to the characteristics of plastic, it is necessary to use a rigid metal liner inside the end of the pipe when using a compression connection.

Liners are made of stainless steel and have a flange formed on one end to prevent them from slipping down inside the pipe during assembly.

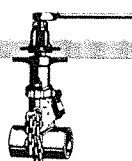
Water products with 110® Conductive Compression Connections can be used with plastic pipe by using the separate liners listed below.



NOMINAL SIZE OF PIPE	TYPE OF PLASTIC	PIPE O.D.	WALL THICKNESS RANGE	PIPE I.D.	LINER PART NUMBER
¾" (with O.D. same as type "K" Copper Service Pipe)	(6) PE	.871 to .879	.097 to .107	.657 to .685	504281
	(1) PVC	.871 to .879	.065 to .080	.711 to .749	504305
	(2) PVC	.871 to .879	.062 to .077	.717 to .755	504305
	(5) PB	.875 to .883	.065 to .075	.725 to .753	504305
¾" PE Plastic Pipe 160 psi	(7) PE	1.045 to 1.110	.118 to .138	.809 to .834	505141
1" (with O.D. same as type "K" Copper Service Pipe)	(6) PE	1.120 to 1.130	.125 to .137	.846 to .880	504385
	(1) PVC	1.121 to 1.129	.083 to .098	.925 to .963	504391
	(3) PVC	1.121 to 1.129	.066 to .081	.959 to .997	504390
	(4) PVC	1.121 to 1.129	.062 to .077	.967 to 1.005	504390
	(5) PB	1.125 to 1.135	.083 to .093	.939 to .969	504391
1" PE Plastic Pipe 160 psi	(7) PE	1.329 to 1.399	.150 to .170	1.029 to 1.059	505142

1. ASTM D 2740 PVC 2110 Only
2. ASTM D 2740 PVC 2112, 2116, 1120, 1220, 2120 and CPVC 4116
3. ASTM D 2740 PVC 2112 Only
4. ASTM D 2740 PVC 2116, 1120, 1220, 2120 and CPVC 4116
5. ASTM D 2666 PB 2110
6. ASTM D 2737 PE 2306, 3206 and 3306
7. ASTM D 2239 or NBS PS11-69 (SDR-7) 160 psi

ORDER LINERS BY QUANTITY AND PART NUMBER.



**MUELLER CO.  
DECATUR, ILL.**

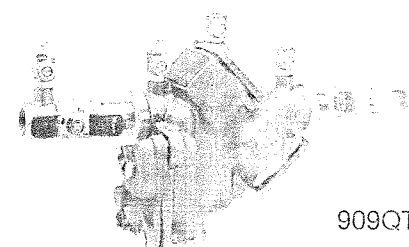
5-18  
Rev.  
4-71



# Series 909 (3/4" – 2")

## Reduced Pressure Zone Assemblies

- Designed to prevent the reverse flow of polluted water from entering the potable water system
- For health hazard continuous pressure applications
- Unique patented "air-in/water-out" design provides high capacity relief valve discharge performance during emergency conditions of backsiphonage and backpressure with both checks fouled



909QT

## Specifications

- Temperature Range: 33°F – 140°F (0.5°C – 60°C) continuous; 180°F (82°C) intermittent
- Maximum Working Pressure: 175psi (12.1 bar)

## Models

add Suffix:

**QT** – quarter-turn ball valves

**S** – bronze strainer

**HW** – stainless steel check modules for hot and harsh water conditions

**LF** – without shutoff valves

**LH** – locking handle ball valves (open position)

**HC** – inlet/outlet fire hydrant fitting (2" (50mm) only)

**PC** – polymer coating

Prefix

**C** – clean and check strainer - 3/4" and 1" only (20 and 25mm)

**U** – union connections - 3/4" and 1" only (20 and 25mm)

**FAE** – flanged adapter ends - 1 1/4", 1 1/2", 2" only (32, 40, 50mm)

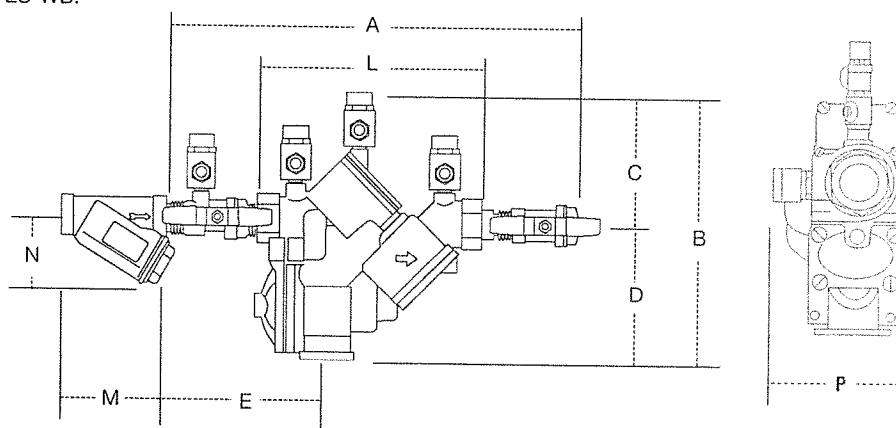
For additional information, request literature ES-909S.

For information on Air Gaps, Vent Elbows and Test Cocks see page 58 or request literature ES-AG/EL/TC.

For WattsBox Enclosures, request literature ES-WB.

## Features

- Modular design
- Replaceable bronze seats
- Compact for installation ease
- Horizontal or vertical (up or down) installation
- No special tools required for servicing



## 909

SIZE (DN)		DIMENSIONS (APPROX.)										STRAINER DIMENSIONS				WEIGHT					
		A		B		C		D		E		L		P		M		N			
in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	lbs.	kgs.
¾	20	14⅜	365	8¾	222	4	102	4¾	121	6¾	171	7⅝	186	3⅞	98	3⅜	81	2¾	70	14	6
1	25	15⅜	391	8¾	222	4	102	4¾	121	7	178	7⅝	186	3⅞	98	3¾	95	3	76	15	7
1¼	32	18½	470	11⅝	295	5½	140	6½	165	7½	191	10⅝	264	5¼	133	4⅞	113	3½	89	40	18
1½	40	19	483	11⅝	295	5½	140	6½	165	7½	191	10⅝	264	5¼	133	4⅞	124	4	102	40	18
2	50	19½	495	11⅝	295	5½	140	6½	165	7¾	197	10⅝	264	5¼	133	5⅟ <sub>16</sub>	151	5	127	40	18

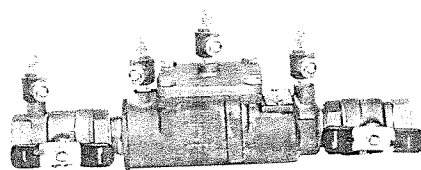
# Series 007 (1/2" - 3")

## Double Check Valve Assemblies

- Designed to prevent the reverse flow of polluted water from entering the potable water system
- For non-health hazard continuous pressure applications
- Provides protection against backsiphonage and backpressure backflow

### Specifications

- Temperature Range: 1/2" - 2": 33°F - 180°F (0.5°C - 82°C); 2 1/2" - 3": 33°F - 110°F (0.5°C - 43°C) continuous, 140°F (60°C) intermittent
- Maximum Working Pressure: 175psi (12.1 bar)



007M3QT

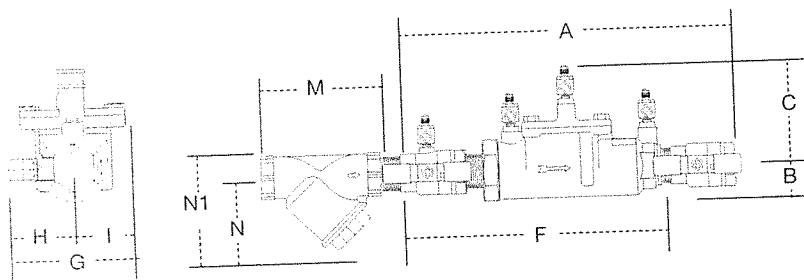
### Features

- Ease of maintenance - only one cover
- Top entry
- Replaceable seats and seat discs
- Modular construction
- Compact design
- Top mounted ball valve test cocks
- Low pressure drop
- No special tools required for servicing
- 1/2" - 1" (15 - 25 mm) have tee handles
- 1/2" - 2" (15 - 50mm) cast bronze body construction
- 2 1/2" - 3" (65 - 80mm) fused epoxy coated cast iron body



For additional information, request literature ES-007 or ES-SS007.

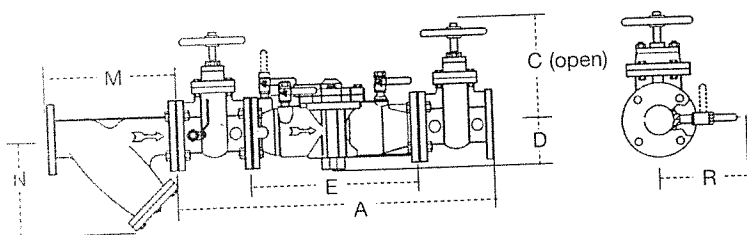
For WattsBox Enclosures, request literature ES-WB.



007QT

SIZE (DN)		DIMENSIONS (APPROX.)										STRAINER DIMENSIONS						WEIGHT					
		A		B		C		F		G		H		I		M		N		N <sub>1</sub>		lbs.	kgs.
		in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm		
1/2	15	10	254	4 5/8	117	2 1/16	62	5	127	3 3/8	85	2 5/16	59	2 1/16	52	2 3/4	70	2 1/4	57	10	254	4.5	2
3/4	20	11 1/8	282	4	102	3 3/8	79	6 3/16	157	3 7/8	87	2 1/2	54	1 5/8	33	3 3/8	81	2 3/4	70	10	254	5	2.3
1	25	13 1/4	337	5 1/8	130	4	102	7 1/2	191	3 3/8	85	1 11/16	43	1 11/16	43	3 3/4	95	3	76	12	305	12	5.4
1 1/4	32	16 3/8	416	5	127	3 3/8	84	9 1/2	241	5	127	3	76	2	50	4 7/8	113	3 1/2	89	20	508	15	6.8
1 1/2	40	16 3/4	425	4 7/8	124	3 1/2	89	9 3/4	248	5 13/16	148	3 3/8	79	2 11/16	68	4 7/8	124	4	103	22 3/4	578	15.86	7.2
2	50	19 1/2	495	6 1/4	159	4	102	13 3/8	340	6 1/8	156	3 7/8	87	2 11/16	68	5 5/8	151	5	127	28	711	25.75	11.7

\*Dimensions required for screen removal.



MODEL NO.	SIZE (DN)		DIMENSIONS (APPROX.)										STRAINER DIMENSIONS				WEIGHT	
			A		C		D		E		R		M		N			
	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	in.	mm	lb.	kgs.		
007-NRS	2½	65	33⅞	841	9⅞	238	4⅝	109	18⅞	460	8¾	222	10	254	6½	165	155	70
007-OSY	2½	65	33⅞	841	16⅞	416	4⅝	109	18⅞	460	8¾	222	10	254	6½	165	158	72
007QT-FDA	2½	65	33⅞	841	6⅞	162	4⅝	109	18⅞	460	8¾	222	10⅞	267	7	178	155	70
007-OSY	3	80	34⅞	867	18⅞	479	4⅝	109	18⅞	460	8¾	222	10⅞	267	7	178	185	84
007-NRS	3	80	34⅞	867	10¼	260	4⅝	109	18⅞	460	8¾	222	10⅞	267	7	178	185	84
007QT-FDA	3	80	34⅞	867	6⅞	162	4⅝	109	18⅞	460	8¾	222	10⅞	267	7	178	155	70

For assistance, contact your local authorized Watts agent or visit our website at [www.watts.com](http://www.watts.com)

DELIVERABLES	LUMP SUM PROPOSED:	HOURS OF LABOR:
<b>GENERAL REQUIREMENTS</b>		
Task 1) Project Schedule		
Task 2) Project Management & Coordination Meetings ( <i>incl. MILEAGE</i> )		
Task 3) Project Permitting		
<i>Task 3.1) Local Agency Permitting: County Highway, Zoning, etc.</i>		
<i>Task 3.2) State Agency Permitting: NYS DOT, NYS DEC, NYS DOH, NYS DOL, APA, SHPO, THPO, etc.</i>		
<i>Task 3.3) Federal Agency Permitting: ACOE, EPA, HUD/OCR, NEPA, USFWS, etc.</i>		
Task 4) Program Management: Consultant & Contractor CDBG Program Requirements & Reporting		
<b>SCHEMATIC DESIGN PHASE</b>		
Task 7) Data Collection & Review (not Surveys)		
Task 8) Preliminary Designs ( <i>Basis of Design for Owner / Regulatory approval</i> )		
Task 9) Schematic Designs ( <i>30% Designs to support full permitting</i> )		
<b>FINAL DESIGN PHASE</b>		
Task 10) Final Designs ( <i>100% completion for Funding/Regulatory approval</i> )		
Task 11) Regulatory Agency Coordination for Plans & Specs		
<b>BIDDING PHASE</b>		
Task 12) Provide CDBG Compliant Construction Documents ( <i>incl. PRINTING</i> )		
Task 13) Advertise for Bidding, provide Bid Response Services ( <i>incl. PUBLISHING</i> )		
Task 14) Tabulate Bid Results		
<b>CONSTRUCTION ADMIN PHASE</b>		
Task 15) Preconstruction Conference		
Task 16) Construction Period Services: Technical Analysis & Contractor Payments/Submittals		
<b>POST CONSTRUCTION PHASE</b>		
Task 18) Punch List with Contractor		
Task 19) Codes & Compliance Review / Certification ( <i>see Closeout Checklist</i> )		
Task 20) Engineer's Notice of Completion ( <i>Completion Certification</i> )		
<b>ALTERNATE: RPR SERVICES</b>		
Task 21) 12 Weeks of RPR Services		
<b>NOTE: FOR THIS PROJECT DOT-CERTIFIED RPR IS REQUIRED!</b>		
<b>REIMBURSABLES</b>		
Task 22) Surveys & Base Mapping		
Task 23) Archaeological Evaluations		
Task 24) Geotechnical Evaluations		

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

# **AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

Prepared by



Issued and Published Jointly by



This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

Copyright © 2014:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

**NOTE:** EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – SERVICES OF ENGINEER.....	1
1.01 Scope .....	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES .....	1
2.01 General.....	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES .....	2
3.01 Commencement.....	2
3.02 Time for Completion .....	2
ARTICLE 4 – INVOICES AND PAYMENTS.....	2
4.01 Invoices.....	2
4.02 Payments.....	2
ARTICLE 5 – OPINIONS OF COST .....	3
5.01 Opinions of Probable Construction Cost.....	3
5.02 Designing to Construction Cost Limit.....	3
5.03 Opinions of Total Project Costs.....	4
ARTICLE 6 – GENERAL CONSIDERATIONS .....	4
6.01 Standards of Performance .....	4
6.02 Design Without Construction Phase Services .....	6
6.03 Use of Documents .....	6
6.04 Electronic Transmittals .....	7
6.05 Insurance.....	7
6.06 Suspension and Termination.....	8
6.07 Controlling Law .....	10
6.08 Successors, Assigns, and Beneficiaries .....	10
6.09 Dispute Resolution .....	10
6.10 Environmental Condition of Site .....	11
6.11 Indemnification and Mutual Waiver.....	11
6.12 Records Retention .....	12
6.13 Miscellaneous Provisions.....	13
ARTICLE 7 – DEFINITIONS .....	13
7.01 Defined Terms.....	13
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS .....	17
8.01 Exhibits Included: .....	17
8.02 Total Agreement.....	18
8.03 Designated Representatives .....	18
8.04 Engineer's Certifications .....	18

THIS IS AN AGREEMENT effective as of [REDACTED] (“Effective Date”) between

[REDACTED] (“Engineer”).

**WATER DISTRICT #1 WATER SYSTEM UPGRADES FOR ROUTE 9S** ("Project").

Engineer's services under this Agreement are generally identified as follows:

Owner and Engineer further agree as follows:

A. Engineer shall provide, or cause to be provided, the services set forth herein, **in the originating RFP and in Exhibit A.**

- A. Owner shall have the responsibilities set forth herein and in **Exhibit B**.
- B. Owner shall pay Engineer as set forth in **Article 4 and Exhibit C**.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
  - 1. any development that affects the scope or time of performance of Engineer's services;
  - 2. the presence at the Site of any Constituent of Concern; or
  - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

### ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

#### 3.01 *Commencement*

- A. Engineer is authorized to begin rendering services as of the Effective Date.

#### 3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in **Exhibit A and Exhibit L**, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. **If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.**

### ARTICLE 4 – INVOICES AND PAYMENTS

#### 4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of **Exhibit C**. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within **thirty (30) days** of receipt.

#### 4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.



- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within **thirty (30) days** after receipt of Engineer's invoice, then:
1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
  2. Engineer may, after giving **seven (7) days** written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
3. **Exceptions to this section apply when the Consultant fails to provide funding agency required reports and/or documents that are complete and on time; if these reports are not supplied as required and further specified in the Attachments hereto, the Owner reserves the right to withhold payment without penalty by the Consultant to ensure that project costs are compliant per the specified funding agency program requirements.**
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of **Paragraph 4.01**.
- ~~D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of **Exhibit C**.~~

## ARTICLE 5 – OPINIONS OF COST

### 5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### 5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in **Exhibit F** to this Agreement.

### 5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## ARTICLE 6 – GENERAL CONSIDERATIONS

### 6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in **Paragraph 6.01.A**, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
  - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
  - 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in **Paragraph 6.01.A**, and to the extent compliance is not inconsistent with professional practice requirements.
  - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
    - a. changes after the Effective Date to Laws and Regulations;
    - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
    - c. changes after the Effective Date to Owner-provided written policies or procedures.

- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- G. **The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 “Standard General Conditions of the Construction Contract” (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.**
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor’s work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor’s furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor’s, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer’s services do not include providing legal advice or representation.
- M. Engineer’s services do not include (1) serving as a “municipal advisor” for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.
- O. The parties each acknowledge, covenant and agree that the relationship of the Consultant to the Owner shall be of an independent contractor. The Consultant, in accordance with its status as an independent contractor, further covenants and agrees that it
1. will conduct itself in accordance with its status as an independent contractor;

2. will neither hold itself out as nor claim to be an officer or employee of the Owner;
  3. will not make any claim, demand, or application for any right of privilege applicable to an officer or an employee of the Owner, including but not limited to workers compensation benefits, unemployment insurance benefits, social security coverage or retirement membership or credits.
- P. The Consultant shall, during the term of this agreement, obtain and keep in full force and effect any and all licenses, permits and certifications required by any governmental authority having jurisdiction over the rendition and performance of the services to be furnished by the Consultant under this agreement.

#### 6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in **Exhibit A, Paragraph A1.05**. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in **Exhibit A**.

#### 6.03 *Use of Documents*

- ~~A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.~~
- B. The Consultant is to maintain all books, documents, papers, account records and other evidence pertaining to this work and to make such materials available at their respective offices at all reasonable times during the agreement and for a period up to seven (7) years from the date of final payment under the agreement
- C. **All reports, documents, information, presentations, electronic drawings, and other materials prepared by Engineer and its' subconsultants in connection with this Agreement are the Owner's sole property in which the Engineer has no proprietary or other rights or interests.** All reports, documents, information and any materials or equipment furnished to the Engineer by the Owner shall remain the sole property of the Owner and except for the Engineer's limited possession of the purpose of carrying out each Agreement, shall be returned to the Owner at the conclusion of each Agreement. Nothing written in this paragraph, however, will be interpreted to forbid the Engineer from retaining a single copy of the information for its files.
- D. If Engineer is required to prepare or furnish Drawings and/or Specifications under this Agreement, Engineer shall deliver to Owner at least **two (2)** original printed record versions of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and further provide electronic copies of the appropriate file type (e.g., PDF,

JPEG, DWG, etc.) upon completion of the project and upon payment in full to the Engineer.

- E. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a ~~limited~~ **unmitigated** license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties. ***THIS PROVISION SHALL NOT APPLY TO SURVEY AND MAPPING PRODUCTS THAT WILL REMAIN THE PROPERTY OF THE OWNER AT PROJECT COMPLETION.***
- F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

#### 6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

#### 6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in **Exhibit G**. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

- B. Owner shall procure and maintain insurance as set forth in **Exhibit G**. Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in **Exhibit G**. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least **ten (10) days** prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in **Exhibit G**. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and **Exhibit G** will be supplemented to incorporate these requirements.

#### 6.06 *Suspension and Termination*

##### A. *Suspension:*

1. *By Owner:* Owner may suspend the Project for up to **ninety (90) days** upon **seven (7) days** written notice to Engineer.
2. *By Engineer:* Engineer may, after giving **seven (7) days** written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced

services and expenses, as set forth in **Paragraph 4.02.B**, or in response to the presence of Constituents of Concern at the Site, as set forth in **Paragraph 6.10.D**.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. by either party upon **thirty (30) days** written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. by Engineer:

1) upon **seven (7) days** written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon **seven (7) days** written notice if the Engineer's services for the Project are delayed or suspended for more than **ninety (90) days** for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in **Paragraph 6.10.D**.

3) **In the event of such termination, Engineer is still liable to provide any project drawings, specifications, mapping and any other developed Work that the Owner has paid for in the period of performance.**

~~4) Engineer shall have no liability to Owner on account of such termination.~~

c. Notwithstanding the foregoing, this Agreement will not terminate under **Paragraph 6.06.B.1.a** if the party receiving such notice begins, within **seven (7) days** of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than **thirty (30) days** of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such **thirty (30) day** period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, **sixty (60) days** after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under **Paragraph 6.06.B** may set the effective date of termination at a time up to **thirty (30) days** later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under **Paragraph 6.06**, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred ~~through~~ **up to** the effective date of termination. Upon making such payment, Owner shall have the

~~limited~~ **unmitigated** right to the use of Documents, at Owner's sole risk, subject to the provisions of **Paragraph 6.03**.

- ~~2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in **Paragraph 6.06.D.1**, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close out costs, using methods and rates for Additional Services as set forth in **Exhibit C**.~~

#### 6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located: **TOWN OF LEWIS, ESSEX COUNTY, NEW YORK.**

#### 6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by **Paragraph 6.08.B** the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
  2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  3. Owner agrees that the substance of the provisions of this **Paragraph 6.08.C** shall appear in the Construction Contract Documents.

#### 6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of **thirty (30) days** from the date of notice prior to invoking the procedures of **Exhibit H** or other provisions of this Agreement, or exercising their rights at law.
- B. **After the thirty (30) day period for mutual negotiation has expired or the process has failed, then disputes, including breach or alleged breach thereof, may not be submitted**



to binding arbitration. Instead, the dispute must be heard in the Essex County Supreme Court or any other court of competent jurisdiction within Essex County, NY

- ~~C. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.~~

#### 6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### 6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself),

including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~

- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations ~~and to the extent (if any) required in Exhibit I, "Limitations of Liability."~~
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. ~~*Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.~~

#### 6.12 *Records Retention*

- A. Engineer shall establish and maintain complete and accurate books, records, documents, accounts & other evidence directly pertinent to performance under this contract of the Consultant on file in legible form, for a period of **six (6) years** following completion or termination of its services under each Task Order plus the year in which the Work was completed; all Documents, records (including cost records), and design calculations related to Consultant's services or pertinent to Consultant's performance under the Task Order.
- B. Upon Owner's request, Consultant shall provide access to the Records during normal business hours at an office of the Consultant in the State of New York; if not such office is available, then at a mutually agreeable venue for the purposes of inspection, auditing and copying. Consultant will also ensure the ability to send and utilize electronic/digital files of

the same of more efficient transference of Records, per **Paragraph 6.04.** ~~a copy of any such item to Owner at cost.~~

- C. The Owner shall take reasonable steps to protect from public disclosure any of the records which are exempt from disclosure under Section 87 of the Public Officers Law (The “Statute”) provided that: (1) the Consultant shall timely inform an appropriate Owner official, in writing, that said records should not be disclosed; and (2) said records shall be sufficiently identified and designation of said records as exempt under the statute is reasonable. Nothing contained herein shall diminish, or in any way affect, the Owners’ right to discovery in any pending or future litigation.

#### 6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party’s non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

### **ARTICLE 7 – DEFINITIONS**

#### 7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
  - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
  - 2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.

3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and

allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner's costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.

25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs,

allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

## ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

### 8.01 *Exhibits Included*:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Owner's Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. (*AS AN ALTERNATE FOR BID*)
- E. Exhibit E, EJCDC Notice of Acceptability of Work.
- ~~F. Exhibit F, Construction Cost Limit.~~
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- ~~I. Exhibit I, Limitations of Liability.~~
- J. Exhibit J, Special Provisions.
- K. Exhibit K, EJCDC Amendment to Owner-Engineer Agreement.
- L. **Exhibit L, Project Schedule**

- M. **Exhibit M, Community Block Development Grant Program Requirements**
- N. **Exhibit N, EJCDC Contractor Payment Application**
- O. **Exhibit O, Project Closeout Checklist**

#### 8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of **Exhibit K** to this Agreement.

#### 8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

#### 8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this **Paragraph 8.04**:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
  - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: **TOWN OF LEWIS**

Engineer: [ ]

By: \_\_\_\_\_

By: [ ] \_\_\_\_\_

Print name: **HON. JAMES MONTY**

Print name: \_\_\_\_\_

Title: **TOWN SUPERVISOR**

Title: [ ] \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date  
Signed: \_\_\_\_\_

Engineer License or Firm's Certificate No. (if required):

[ ]

State of: [ ] \_\_\_\_\_

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

[ ]

**P. O. Box 59**

**Lewis, NY 12942**

Designated Representative (**Paragraph 8.03.A**):

Designated Representative (**Paragraph 8.03.A**):

**Rob Wick, PMP**

[ ]

Title: **Project Management Specialist**

Title: [ ] \_\_\_\_\_

Phone Number: **(518) 873-3426**

Phone Number: [ ] \_\_\_\_\_

E-Mail Address: **rwick@co.essex.ny.us**

E-Mail Address: [ ] \_\_\_\_\_

This is **EXHIBIT A**, consisting of **17** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

## **Engineer's Services**

---

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

### **PART 1 – BASIC SERVICES**

#### *A1.01 General Requirements:*

A. Engineer shall:

1. *Project Schedule.*

- a. Produce a project schedule in Gantt chart format at the start of the project as a baseline, and continue to keep the schedule updated throughout project.
- b. Provide updates to the Owner for any changes to the schedule that may impact the timely execution of the project per the terms of the contract.

2. *Project Management:*

- a. Conduct a minimum of **one (1) project meeting per month** through all phases of design and construction; Engineer will notify Owner of any additional meetings required, whether they be informal, formal or official Board Meetings to pass various Resolutions.
- b. Engineer will keep all meeting minutes and distribute to attendees.
- c. Produce all necessary documents for supporting the permitting necessary for the project.
- d. Engineer will coordinate with Owner (or Owner's Designated Representative) for necessary permits.

3. *Program Management:*

- a. Ensure Engineer's own contract is compliant by the Owners' funding program requirements, and produce all necessary reports required.
- b. Ensure that Owners' Contractors contracts are also compliant per the Owners' funding program requirements, and all necessary reports required are produced.

#### *Study and Report Phase*

B. ~~Engineer shall:~~

- ~~1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements;~~

---

**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**

flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.

- a. ~~If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions:~~
- b. ~~If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~
- c. ~~If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [ ] *[insert specific number]* alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~
2. ~~Identify potential solution(s) to meet Owner's Project requirements, as needed.~~
3. ~~Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~
4. ~~Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~
5. ~~Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~
6. ~~After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~
7. ~~Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~
8. ~~Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.~~
9. ~~Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.~~

- ~~10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."~~
  - ~~11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.~~
  - ~~12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.~~
  - ~~13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.~~
  - ~~14. Perform or provide the following other Study and Report Phase tasks or deliverables:  
[ ] *[List any such tasks or deliverables here.]*~~
  - ~~15. Furnish [ ] review copies of the Report and any other Study and Report Phase deliverables to Owner within [ ] days of the Effective Date and review it with Owner. Within [ ] days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~
  - ~~16. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish [ ] copies of the revised Report and any other Study and Report Phase deliverables to the Owner within [ ] days of receipt of Owner's comments.~~
- ~~C. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.~~

**A1.02 Schematic Design Phase (30% completion to completely support permitting processes)**

- ~~A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:~~
- ~~1. Prepare Schematic Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.~~
  - ~~2. In preparing the Schematic Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the~~

---

**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**

Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.

3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer **based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data,"** as set forth in **Paragraph A1.01.A.12** above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
4. Visit the Site as needed to prepare the Schematic Design Phase documents.
5. Advise Owner if additional reports, data, information, or services of the types described in **Exhibit B** are necessary and assist Owner in obtaining such reports, data, information, or services.
6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.
7. Based on the information contained in the Schematic Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.
8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.
9. Perform or provide the following other Schematic Design Phase tasks or deliverables:

**COORDINATE WITH THE OWNER AND OWNER'S PROJECT TEAM TO SUPPORT EFFORTS IN ACHIEVING ANY AND ALL PERMITTING NECESSARY FOR PROJECT TO REGULATORY AND FUNDING AGENCIES, PRIOR TO FINAL DESIGN AND IN TIME TO SUPPORT BIDDING OF CONSTRUCTION, PER EXHIBIT L, "PROJECT SCHEDULE".**

**FINAL DESIGN SHALL NOT COMMENCE UNTIL ALL DOCUMENTS ARE PROVIDED TO OWNER FOR ALL NECESSARY PERMITTING.**

10. Furnish **two [ 2 ]** review copies of the Schematic Design Phase documents, opinion of probable Construction Cost, and any other Schematic Design Phase deliverables to Owner within **thirty [ 30 ]** days of authorization to proceed with this phase, and review them

---

**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**

with Owner. Within **ten [ 10 ]** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

11. Revise the Schematic Design Phase documents, opinion of probable Construction Cost, and any other Schematic Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner **two [ 2 ] copies** of the revised Schematic Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within **fifteen [ 15 ] days** after receipt of Owner's comments.

- B. Engineer's services under the Schematic Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Schematic Design Phase documents, revised opinion of probable Construction Cost, and any other Schematic Design Phase deliverables.

**A1.03** *Final Design Phase (100% complete & approvable for Regulatory/Funding Agency reviews)*

- A. After acceptance by Owner of the Schematic Design Phase documents, revised opinion of probable Construction Cost as determined in the Schematic Design Phase, and any other Schematic Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
  1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
  2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
  3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
  4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
  5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
  6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
  7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.

8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
9. Perform or provide the following other Final Design Phase tasks or deliverables:  
**PROVIDE A “FINAL APPROVABLE” SET OF PLANS & SPECS TO REGULATORY AND FUNDING AGENCIES IS SUCH TIME TO ALLOW FOR FORMAL REVIEW ACCEPTANCE PRIOR TO BIDDING CONSTRUCTION PROJECT.**

**ENGINEER WILL ACCOUNT FOR A MINIMUM OF SIX (6) WEEKS FOR REGULATORY / FUNDING AGENCIES TO REVIEW CONSTRUCTION DOCUMENTS IN THE PROJECT SCHEDULE.**

10. Furnish for review by Owner, its legal counsel, and other advisors, **two [ 2 ] copies** of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within **forty-five [ 45 ] days** of authorization to proceed with the Final Design Phase, and review them with Owner. Within **fifteen [ 15 ] days** of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.
  11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit **two [ 2 ] final copies** of such documents to Owner within **twenty [ 20 ] days** after receipt of Owner’s comments and instructions.
- B. Engineer’s services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.
- C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer’s services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer’s services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
- D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer’s compensation has been established under this Agreement is **[ 1 - GENERAL CONTRACTOR ]**. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase (incl. Program Compliant “Construction Documents”)*

- A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other

---

**Exhibit A – Engineer’s Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**

construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

1. **Conduct a Pre-Bidding Conference and ensure all potential Bidders are cognizant of the Work that is to be Bid, and any special considerations, to include Funding Agency requirements.**
2. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
3. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.
4. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.
5. Consult with Owner as to the qualifications of prospective contractors.
6. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
7. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of **Paragraph A2.02.A.2 of this Exhibit A.**
8. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
9. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
10. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:

**ENSURE ALL CONSTRUCTION DOCUMENTS ARE COMPLIANT WITH FUNDING REQUIREMENTS, PER EXHIBIT M, "CDBG PROGRAM REQUIREMENTS".**

- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if **Exhibit F** is a part of this Agreement).



## A1.05 Construction Phase

A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:

1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
2. **BID ALTERNATE: Resident Project Representative (RPR):** Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in **Exhibit D**. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in **Exhibit D**.

**NOTE: THE OWNER MAY ELECT TO PROVIDE AN RPR FOR THIS PROJECT; ENGINEER IS EXPECTED TO PROVIDE QUOTES FOR THIS SERVICE AND WILL BE TREATED AS A BID ALTERNATE IN THE EVENT THE ENGINEER IS REQUIRED TO PROVIDE THIS SERVICE.**

**THE OWNER WILL PROVIDE NOTICE OF THIS SERVICE FROM ENGINEER NOT LATER THAN THE PROJECT BIDDING ADVERTISEMNT FOR PURPOSES OF SECURING RPR RESOURCES IN A TIMLEY MANNER.**

3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in **Exhibit B, Paragraph B2.01**.
4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site. **ENGINEER WILL BE EXPECTED TO CITE ALL FUNDING REQUIREMENTS THE PROJECT MUST BE COMPLIANT TO ENSURE CONTRATOR(S) HAVE ALL NECESSARY AGENCY PLAN & REPORT FORMS TO POPULATE, PER EXHIBIT N.**
5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.

6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
  - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
  - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work,

or any portion of the Work, in accordance with the Construction Contract Documents.

10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.
13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
17. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

---

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

18. *Substitutes and "Or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of **Paragraph A2.02.A.2 of this Exhibit A**.
19. *Inspections and Tests*:
- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
  - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
  - c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
20. *Change Proposals and Claims*: (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within **ten (10) days** after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part **such that the Owner can pay the Contractor within a thirty (30) day term from invoice submission**. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
21. *Applications for Payment*: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents). **Further, the Engineer will review Contractor Submittals for any funding agency plans or**

---

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

**reports that are due on monthly/quarterly deliverables for compliance and acceptability, so ensure that all project costs are funding agency compliant.**

- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; ~~to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.~~
22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, **Record Drawings**, Samples, and other data approved as provided under **Paragraph A1.05.A.17**. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages. **Engineer shall ensure that all Project Closeout documents listed in Exhibit P, "Project Closeout Checklist", are secured prior to issuing the "Notice of Acceptability of Work". Provided in Exhibit E.**
23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: **ENSURE ALL DELIVERABLES THROUGH CONSTRUCTION ADMINISTRATION ARE COMPLIANT AND IN ACCORDANCE WITH FUNDING PROGRAM REQUIREMENTS, LISTED IN EXHIBIT M.**
25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final

payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as **Exhibit E (“Notice of Acceptability of Work”)** that the Work is acceptable (subject to the provisions of the Notice and **Paragraph A1.05.A.21.b**) to the best of Engineer’s knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

26. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in **Paragraph A1.03.D**, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of **Article 3**, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

#### A1.06 *Post-Construction Phase*

A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
2. Together with Owner, visit the Project within one month before the end of the Construction Contract’s correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
3. Perform or provide the following other Post-Construction Phase tasks or deliverables:

**ENSURE ALL NECESSARY DOCUMENTS ADDRESS FUNDING AGENCY REQUIREMENTS AS DEFINED IN EXHIBIT M.**

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract’s correction period.

## PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in **Exhibit C**.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for ~~private or governmental grants, loans, or advances in connection with the Project;~~ preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, ~~or to verify the accuracy of drawings or other information furnished by Owner or others.~~
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in **Paragraph A1.01.A.1 and 2**.
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. ~~Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.~~

**NOTE: A PRIMARY DELIVERABLE OF THIS CONTRACT IS TO PROVIDE OWNER AN ELECTRONIC SET OF PROJECT DESIGN DATA TO INCLUDE ANY MAPS, DESIGNS, SPECIFICATIONS, ETC. USED IN CONJUNCTION WITH ESTABLISHING CONSTRUCTION DOCUMENTS. OWNER WILL ESTABLISH THE FILE TYPE PREFERABLE; THIS ACTIVITY IS NOT SUBJECT TO INTERPRETATION AS AN "ADDITIONAL SERVICE".**

7. Undertaking investigations and studies including, but not limited to:
  - a. detailed consideration of operations, maintenance, and overhead expenses;
  - b. ~~the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;~~
  - c. ~~preparation of appraisals;~~

---

**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**

- ~~d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;~~
- ~~e. detailed quantity surveys of materials, equipment, and labor; and~~
- ~~f. audits or inventories required in connection with construction performed or furnished by Owner.~~

**NOTE: AS A PART OF THE CONSTRUCTION PHASE ADMINISTRATION SERVICES, THE ENGINEER IS EXPECTED TO PROVIDE ANALYSIS OF THE CONTRACTOR'S MATERIALS AND QUANTITIES USAGE TO SUPPORT EACH PAYMENT APPLICATION REMITTED EACH MONTH AND NOT SUBJECT TO INTERPRETATION AS AN "ADDITIONAL SERVICE".**

- 8. Furnishing services of Consultants for other than Basic Services.
- 9. Providing data or services of the types described in **Exhibit B**, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
- 10. Providing the following services:
  - a. Services attributable to more prime construction contracts than specified in **Paragraph A1.03.D**.
  - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
- 11. Services during out-of-town travel required of Engineer, *other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A)*.
- ~~12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.~~
- 13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
- 14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by **Paragraph 5.02.A and Exhibit F**.
- 15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
- 16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.

---

**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**



~~17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.~~

**NOTE: ENGINEER SHALL CITE IN CONSTRUCTION DOCUMENTS THAT THE CONTRACTOR IS RESPONSIBLE TO PROVIDE RECORD DRAWINGS, AND ENGINEER SHALL REVIEW FOR ACCURACY AND APPLY ANY NECESSARY MARKUPS, AS REQUIRED AS A NORMAL CONSTRUCTION PHASE SERVICES ACTIVITY, NOT SUBJECT TO INTERPRETATION AS “ADDITIONAL SERVICES”.**

~~18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.~~

~~19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.~~

20. Preparation of operation, maintenance, and staffing manuals.

21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).

22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.

23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.

24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.

25. Overtime work requiring higher than regular rates.

26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under **Paragraph A1.05.A.8**; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.

27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.

28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).

29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 *Additional Services Not Requiring Owner's Written Authorization*

A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
2. ~~Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.~~

**NOTE: ENGINEER SHALL COMMUNICATE TO OWNER ANY CHANGES TO THE PLANS & SPECIFICATIONS THAT RESULT IN PRODUCT CHANGES THAT DO NOT MEET THE EXISTING CONFIGURATION MANAGEMENT OR PRODUCT STANDARDS, PER THE ORIGINATING RFP, APPENDIX J.**

3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of **3** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

## **Owner's Responsibilities**

---

**Article 2** of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.
  - 3. Utility and topographic mapping and surveys.
  - 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
  6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
  7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
  2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
  3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- ~~G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.~~

**NOTE: THE ENGINEER SHALL PROVIDE AND/OR PROCURE AND NECESSARY TESTING THAT NEEDS TO OCCUR IN ORDER TO PRODUCE CONSTRUCTION DOCUMENTS. THE ENGINEER SHALL CITE IN CONSTRUCTION DOCUMENTS THE REQUISITE CONSTRUCTION PERMITTING, AND THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY CONSTRUCTION PHASE TESTING THAT IS NECESSARY.**

- ~~H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.~~

**NOTE: THE ENGINEER IS RESPONSIBLE TO WORK WITH OWNER RESOURCES TO SECURE ALL NECESSARY PERMITTING AND ENVIRONMENTAL APPROVALS FOR THE PROJECT. SUCH RESOURCES MAY BE THIRD PARTY GOVERNMENT AGENCIES.**

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this **Exhibit B** the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this **Exhibit B** that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- M. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- N. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in **Exhibit A**.
- O. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- P. Place and pay for advertisement for Bids in appropriate publications.
- Q. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- R. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- S. Authorize Engineer to provide Additional Services as set forth in **Part 2 of Exhibit A** of the Agreement, as required.
- T. Perform or provide the following:

---

**Exhibit B – Owner's Responsibilities**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.**

DRAFT

---

**Exhibit B – Owner's Responsibilities**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,  
and American Society of Civil Engineers. All rights reserved.**

This is **EXHIBIT C**, consisting of **2** pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated [REDACTED].

**Payments to Engineer for Services and Reimbursable Expenses**  
**COMPENSATION PACKET BC-1: Basic Services – Lump Sum**

---

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

**C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment**

A. Owner shall pay Engineer for Basic Services set forth in **Exhibit A**, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. A Lump Sum amount of \$[REDACTED] based on the following estimated distribution of compensation:
  - a. **General Requirements** \$[REDACTED]
  - b. **Schematic Design Phase** \$[REDACTED]
  - c. **Final Design Phase** \$[REDACTED]
  - d. **Bidding and Negotiating Phase** \$[REDACTED]
  - e. **Construction Phase** \$[REDACTED]
  - f. **Post-Construction Phase** \$[REDACTED]
2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, expenses (other than any expressly allowed Reimbursable Expenses), and Consultant charges.
4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following **Reimbursable Expenses** (see **Appendix 1 for rates or charges**): [REDACTED]
  - a. **GEOTECHNICAL EVALUATIONS:** \$\_\_\_\_\_
  - b. **ARCHAEOLOGICAL EVALUATIONS:** \$\_\_\_\_\_
  - c. **SURVEYS:** \$\_\_\_\_\_

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.
- B. *Period of Service:* The compensation amount stipulated in **Compensation Packet BC-1** is conditioned on a period of service **not exceeding twenty-four (24) months**. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

DRAFT



## COMPENSATION PACKET RPR-2: Resident Project Representative – Standard Hourly Rates

---

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

### C2.04 *Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment*

#### A. *Owner shall pay Engineer for Resident Project Representative Basic Services as follows:*

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative under **Paragraph A1.05.A of Exhibit A**, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is estimated to be **\$[TBA]** based upon full-time RPR services on an eight-hour workday, Monday through Friday, over an approximate **twelve (12) week / sixty (60) day** construction schedule.

#### B. *Compensation for Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under **Paragraph C2.01**, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in **Appendix 1 to this Exhibit C**.
2. Reimbursable Expenses include the expenses identified in **Appendix 1** and the following: transportation (including mileage), lodging, and subsistence incidental thereto; ~~providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges;~~ reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of **1.1, AND LIMITED TO THE DELIVERABLES LISTED IN PARAGRAPH C2.01 OF EXHIBIT C**.
4. The Reimbursable Expenses Schedule will be adjusted annually (**as of January 1<sup>st</sup>, 2019**) to reflect equitable changes in the compensation payable to Engineer.

#### C. *Other Provisions Concerning Payment Under this Paragraph C2.04:*

1. **Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants**, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.1, AND LIMITED TO THE DELIVERABLES LISTED IN PARAGRAPH C2.01 OF EXHIBIT C**.

---

Exhibit C – Compensation Packet RPR-2: Resident Project Representative Services—  
Standard Hourly Rates Method of Payment.

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,  
and American Society of Civil Engineers. All rights reserved.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
  - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
  - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

## COMPENSATION PACKET AS-1: Additional Services – Standard Hourly Rates

---

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

### C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to **Paragraph A2.01 or A2.02 of Exhibit A**, except for services as a consultant or witness under **Paragraph A2.01.A.20**, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.
- B. *Compensation For Reimbursable Expenses:*
1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under **Paragraph C2.01** and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in **Appendix 1 to this Exhibit C**.
  2. Reimbursable Expenses include the expenses identified in **Appendix 1** and the following categories: transportation (including mileage), ~~lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges;~~ reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **ONE POINT ONE [ 1.1], AND LIMITED TO THE DELIVERABLES LISTED IN PARAGRAPH C2.01 OF EXHIBIT C**.
  4. The Reimbursable Expenses Schedule will be adjusted annually (**as of January 1<sup>st</sup>, 2019**) to reflect equitable changes in the compensation payable to Engineer.
- C. *Other Provisions Concerning Payment for Additional Services:*
1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **ONE POINT ONE [ 1.1] , AND LIMITED TO THE DELIVERABLES LISTED IN PARAGRAPH C2.01 OF EXHIBIT C**.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

DRAFT

This is **Appendix 1 to EXHIBIT C**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [ ].

## **Reimbursable Expenses Schedule**

Reimbursable Expenses are subject to review and adjustment per **Exhibit C**. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

**(AS REFERENCED IN "GENERAL CONDITIONS" AND "BIDDING SERVICES")**

<b>BLACK AND WHITE PRODUCTION:</b>	
8"x11" Prints/Copies	\$ TBA /page
11"x17" Prints/Copies	\$ TBA /page
24"X36" Prints/Copies	\$ TBA /page
Larger than 24"x36"	\$ TBA /page
<b>COLOR PRODUCTION</b>	
8"x11" Prints/Copies	\$ TBA /page
11"x17" Prints/Copies	\$ TBA /page
24"X36" Prints/Copies	\$ TBA /page
Larger than 24"x36"	\$ TBA /page
<b>MISCELLANEOUS</b>	
Subconsultant Fees	Cost + 10%
Postage	Cost
Mileage (auto)	\$ [ ]/mile (per current GSA Rates)

This is **Appendix 2 to EXHIBIT C**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

## **Standard Hourly Rates Schedule**

---

**A. Standard Hourly Rates:**

1. Standard Hourly Rates are set forth in this **Appendix 2 to this Exhibit C** and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in **Article C2**.

**B. Schedule:**

Hourly rates for services performed on or after the date of the Agreement are:

<b>Billing Class VIII</b>	<b>\$[REDACTED]/hour</b>
<b>Billing Class VII</b>	<b>[REDACTED]/hour</b>
<b>Billing Class VI</b>	<b>[REDACTED]/hour</b>
<b>Billing Class V</b>	<b>[REDACTED]/hour</b>
<b>Billing Class IV</b>	<b>[REDACTED]/hour</b>
<b>Billing Class III</b>	<b>[REDACTED]/hour</b>
<b>Billing Class II</b>	<b>[REDACTED]/hour</b>
<b>Billing Class I</b>	<b>[REDACTED]/hour</b>
<b>Non-administrative Support Staff</b>	<b>[REDACTED]/hour</b>

This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

## **Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

### **ARTICLE 1 - SERVICES OF ENGINEER**

#### **D1.01 Resident Project Representative**

- A. ***IF THE OWNER IS UNABLE TO PROVIDE AN RPR, THEN NOTICE WILL BE PROVIDED FOR THE ENGINEER TO PROVIDE SAME NO LATER THAN THE RELEASE OF THE PROJECT FOR CONSTRUCTION BIDDING.***
- B. ***RPR MUST HAVE DOT CERTIFICATIONS FOR THIS PROJECT.***
- C. ***UPON NOTIFICATION OF THIS SERVICE TO BE ADDED, NOT LATER THAN THE TIME OF BIDDING,*** Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- D. Through RPR’s observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in **Exhibit A, Paragraph A1.05**, of this Agreement are applicable.
- E. The duties and responsibilities of the RPR are as follows:
  - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
  - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
  - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
  - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
  - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.



- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.

- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer-proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (**Exhibit E**).

F. Resident Project Representative shall not:

- 1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

DRAFT

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].



---

### NOTICE OF ACCEPTABILITY OF WORK

---

**PROJECT:** WATER DISTRICT #1 WATER SYSTEM UPGRADES FOR ROUTE 9S

**OWNER:** TOWN OF LEWIS, NY

**CONTRACTOR:** TBA

**OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:** TBA

**EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:** TBA

**ENGINEER:**

**NOTICE DATE:**

---

**To:**

Owner

**And To:**

Contractor

**From:**

Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_, and the following terms and conditions of this Notice:

### **CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

This is **EXHIBIT F**, consisting of 1 pages,  
~~referred to in and part of the Agreement~~  
~~between Owner and Engineer for~~  
~~Professional Services~~ dated [ ] .

## **Construction Cost Limit**

---

Paragraph 5.02 of the Agreement is supplemented to include the following agreement of the parties:

### **F5.02 — *Designing to Construction Cost Limit***

- A. ~~Owner and Engineer hereby agree to a Construction Cost limit in the amount of \$[ ] .~~
- B. ~~A bidding or negotiating contingency of [ ] percent will be added to any Construction Cost limit established.~~
- C. ~~The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.~~
- D. ~~Engineer will be permitted to determine what types and quality of materials, equipment and component systems are to be included in the Drawings and Specifications. Engineer may make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices, to bring the Project within the Construction Cost limit.~~
- E. ~~If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer. In such cases, Owner shall consent to an adjustment in the Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.~~
- F. ~~If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Construction Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of Engineer's responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.~~

This is **EXHIBIT G**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [ ].

## **Insurance**

---

**Paragraph 6.05** of the Agreement is supplemented to include the following agreement of the parties:

### **G6.05 Insurance**

- A. The limits of liability for the insurance required by **Paragraph 6.05.A and 6.05.B** of the Agreement are as follows:

**1. By Engineer:**

- a. Workers' Compensation: Statutory
- b. Employer's Liability --
  - 1) Bodily injury, each accident: \$100,000.00
  - 2) Bodily injury by disease, each employee: \$50,000.00
  - 3) Bodily injury/disease, aggregate: \$100,000.00
- c. General Liability --
  - 1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000.00
  - 2) General Aggregate: \$2,000,000.00
- d. Excess or Umbrella Liability --
  - 1) Per Occurrence: \$1,000,000.00
  - 2) General Aggregate: \$1,000,000.00

Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): \$1,000,000.00
- e. Professional Liability --
  - 1) Each Claim Made \$1,000,000.00
  - 2) Annual Aggregate \$2,000,000.00
- f. Other (specify): \$[ ]

**2. By Owner:**

- a. Workers' Compensation: Statutory
- b. Employer's Liability --
- 1) Bodily injury, Each Accident \$100,000.00
  - 2) Bodily injury by Disease, Each Employee \$500,000.00
  - 3) Bodily injury/Disease, Aggregate \$100,000.00
- c. General Liability --
- 1) General Aggregate: \$2,000,000.00
  - 2) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000.00
- d. Excess Umbrella Liability
- 1) Per Occurrence: \$1,000,000.00
  - 2) General Aggregate: \$1,000,000.00
- Automobile Liability – Combined Single Limit (Bodily Injury and Property Damage): \$1,000,000.00
- e. Other (specify): \$[ ]



b.                       
Engineer's Consultant

c.                       
Engineer's Consultant

d.                       
  
[other]

2. During the term of this Agreement the Engineer shall notify Owner's Consultant to be listed as an additional insured on Owner's general liability insurance.

3. The Owner shall be listed on Engineer's general liability policy **Paragraph 6.05.A.**

This is **EXHIBIT H**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

## **Dispute Resolution**

---

**Paragraph 6.09 of the Agreement** is supplemented to include the following agreement of the parties:

*[NOTE TO USER: Select one of the two alternatives provided.]*

### **H6.08—Dispute Resolution**

A. ~~Mediation:~~ Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof (“Disputes”) to mediation by [here insert name of mediator, or mediation service]. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

**[or]**

A. ~~Arbitration:~~ All Disputes between Owner and Engineer shall be settled by arbitration in accordance with the [insert the name of a specified arbitration service or organization here] rules effective at the Effective Date, subject to the conditions stated below. This agreement to arbitrate and any other agreement or consent to arbitrate entered into in accordance with this Paragraph H6.09.A will be specifically enforceable under prevailing law of any court having jurisdiction.

- ~~1. Notice of the demand for arbitration must be filed in writing with the other party to the Agreement and with the [specified arbitration service or organization]. The demand must be made within a reasonable time after the Dispute has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statute of limitations.~~
- ~~2. All demands for arbitration and all answering statements thereto which include any monetary claims must contain a statement that the total sum or value in controversy as alleged by the party making such demand or answering statement is not more than \$[REDACTED] (exclusive of interest and costs). The arbitrators will not have jurisdiction, power, or authority to consider, or make findings (except in denial of their own jurisdiction) concerning any Dispute if the amount in controversy in such Dispute is more than \$[REDACTED] (exclusive of interest and costs), or to render a monetary award in response thereto against any party which totals more than \$[REDACTED] (exclusive of interest and costs). Disputes that are not subject to arbitration under this paragraph may be resolved in any court of competent jurisdiction.~~
- ~~3. The rules of any arbitration shall be supplemented to include the following: The award rendered by the arbitrators shall be in writing, and shall include (a) a precise breakdown of the award, and (b) a written explanation of the award specifically citing the Agreement provisions deemed applicable and relied on in making the award.~~

- ~~4. The award rendered by the arbitrators will be consistent with the Agreement of the parties and final, and judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to appeal or modification.~~
- ~~5. If a Dispute in question between Owner and Engineer involves the work of a Contractor, Subcontractor, or consultants to the Owner or Engineer (each a "Joinable Party"), and such Joinable Party has agreed contractually or otherwise to participate in a consolidated arbitration concerning this Project, then either Owner or Engineer may join such Joinable Party as a party to the arbitration between Owner and Engineer hereunder. Nothing in this Paragraph H6.09.A.5 nor in the provision of such contract consenting to joinder shall create any claim, right, or cause of action in favor of the Joinable Party and against Owner or Engineer that does not otherwise exist.~~

DRAFT

This is **EXHIBIT I**, consisting of [ ] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [ ].

## **Limitations of Liability**

---

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

*~~A. Limitation of Engineer's Liability~~*

- ~~1. *Engineer's Liability Limited to Stated Amount, or Amount of Engineer's Compensation:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project, Engineer's or its Consultants' services, or this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants, shall not exceed the total amount of \$[ ] or the total compensation received by Engineer under this Agreement, whichever is greater. Higher limits are available for an additional fee.~~

- ~~2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.11, the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes, including but not limited to:~~

~~*[NOTE TO USER: List here particular types of damages that may be of special concern because of the nature of the project or specific circumstances, e.g., cost of replacement power, loss of use of equipment or of the facility, loss of profits or revenue, loss of financing, regulatory fines, etc.]*~~

- ~~B. *Indemnification by Owner:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use~~

~~resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.~~

DRAFT

This is **EXHIBIT J**, consisting of [ ] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [ ].

## **Special Provisions**

---

**Paragraph(s) A. 1.03** of the Agreement is/are amended to include the following agreement(s) of the parties:

**TO THE FURTHERST EXTENT POSSIBLE, THE ENGINEER SHALL REQUIRE INSTALLATION OF PRODUCTS THAT MEET THE EXISTING CONFIGURATION MANAGEMENT OF THE TOWNS WATER DISTRIBUTION SYSTEM, INCLUDING ALL APPURTENANCES.**

**THESE INCLUDE, BUT ARE NOT LIMITED TO:**

- **BACKFLOW PREVENTION AND WATER METERS ON ALL LATERALS.**
- **SPECIFICATIONS LISTED IN THE RFP, UNDER APPENDIX J (“BRAND, OR EQUAL”).**
- **TEMPORARY WATER CONNECTIONS, AS REQUIRED.**

This is **EXHIBIT K**, consisting of [ ] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [ ].

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. \_\_\_\_\_**

**The Effective Date of this Amendment is: \_\_\_\_\_.**

**Background Data**

Effective Date of Owner-Engineer Agreement:

Owner: **TOWN OF LEWIS, NY**

Engineer:

Project: **WD#1 WATER MAIN REPLACEMENT**

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- \_\_\_\_\_ Additional Services to be performed by Engineer
- \_\_\_\_\_ Modifications to services of Engineer
- \_\_\_\_\_ Modifications to responsibilities of Owner
- \_\_\_\_\_ Modifications of payment to Engineer
- \_\_\_\_\_ Modifications to time(s) for rendering services
- \_\_\_\_\_ Modifications to other terms and conditions of the Agreement

**Description of Modifications:**

***Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.***

**Agreement Summary:**

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): \_\_\_\_\_

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in **Exhibit C**.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

**OWNER: TOWN OF LEWIS, NY**

**ENGINEER: (TBA)**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Print name:** HON. JAMES MONTY

**Print name:** \_\_\_\_\_

**Title:** TOWN SUPERVISOR

**Title:** \_\_\_\_\_

**Date Signed:** \_\_\_\_\_

**Date Signed:** \_\_\_\_\_

DRAFT



## NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, that the Undersigned, on behalf of the Town of Lewis, will accept proposals **until 2:00 P.M. on March 13, 2018** for **Engineering Services to support a water main replacement, and appurtenances, in WD#1, along Route 9S.**

**Minority and Women-Owned Business Enterprises (M/WBE) businesses and Section 3 businesses are strongly encouraged to participate in this Community Development Block Grant funded project.** The Town, the recipient of the Community Development Block Grant (CDBG) funds, is an equal opportunity employer. *For more information on the requirements associated with CDBG funds, please see their website for a complete list of documents & requirements relevant to this project and necessary for all consultants & contractors under this project:*

- <http://www.nyshcr.org/AboutUs/Procurement/Contractinformation.htm>
- <http://www.nyshcr.org/Programs/NYS-CDBG/GrantAdministration.htm>

PLEASE TAKE FURTHER NOTICE that the Town of Lewis affirmatively states that in regard to any contract entered into pursuant to this notice, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or veteran status, disadvantaged and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

In addition to the proposal, the proposer shall submit executed non-collusion bid certificates signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103d. The proposer shall also submit an executed certificate of compliance with the Iran Divestment Act signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103g.

The Town of Lewis reserves the right to except any and all proposal(s), reject any and all proposals not considered to be in the best interest of the Town, and to waive any technical or formal defect in the proposals which is considered by the Town to be merely irregular, immaterial, or unsubstantial.

Please contact the Essex County Planning Office (518) 873-3426 or [CommunityResources@co.essex.ny.us](mailto:CommunityResources@co.essex.ny.us) for additional information concerning the Proposals. Specifications and standard proposals for the proposed work may be obtained at the Essex County Office of Community Resources NYS Contract Reporter account **"Essex County"**.

All proposals submitted in response to this notice shall be marked "**ENGINEERING PROPOSALS – LEWIS WD#1 WATER MAIN REPLACEMENT**" clearly on email traffic and/or the outside of the envelope containing your electronic/digital response files.

**Publishing Processed: February 20, 2018**

Jim Monty, Supervisor  
Town of Lewis  
PO Box 59  
8574 US Rte 9  
Lewis, NY 12851