



CITY OF YONKERS

GENERAL ENGINEERING AGREEMENT NO. 2022-00000777

This GENERAL AGREEMENT (the "General Agreement") is made and entered into this 25th day of April in 2022 by and between the CITY OF YONKERS, a Municipal Corporation of the State of New York ("City") and PALADINO CONCRETE CREATIONS CORP., located at 315 N. MacQuesten PKWY, Mount Vernon, NY 10550, hereinafter called the "Contractor";

WITNESSETH: That the City and the Contractor for the consideration stated herein mutually agree as follows:

ARTICLE 1. STATEMENT OF WORK:

The Contractor shall and will well and sufficiently furnish and provide all the labor, materials and equipment required for:

IFB-6751: 2022 PUBLIC RIGHT OF WAY IMPROVEMENTS

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, appurtenances, equipment and services, including utility and transportation services and perform and complete all work and required supplemental work for the completion of this Contract in strict accordance with the hereinafter referenced Contract Documents including all addenda thereto, if any, all as prepared by the City of Yonkers, New York.

ARTICLE 2. COMPENSATION TO BE PAID TO CONTRACTOR:

The City will pay and the Contractor will accept in full consideration for the performance of the Contract, subject to any additions, deductions and retainages as provided herein, in the current funds a sum not to exceed:

Written in words: **ONE MILLION DOLLARS**

Written in Figures: **\$1,000,000.00**

Payments shall be made in accordance with the payment provisions herein. In no event shall the City be required to make payment to the Contractor for the work hereunder for any claim or damages except as provided in the Contract Documents.

ARTICLE 3. THE CONTRACT DOCUMENTS:

A. Except for titles, subtitles, headings, running headlines, tables of contents, and indices (all of which are printed herein merely for convenience) the following, except for such portions thereof as may be specifically excluded, shall be deemed to be part of this Contract:

a. This Agreement	f. Signed copy of Bid, with all attachments required for the Bidding, including Bidder's Affidavit
b Schedule "A" to the General Agreement	g. Technical Specification
c. All addenda issued by the City	h. Performance & Payment Bonds
d. Information For Bidders	i. Certificates of Insurance
e. Exhibits not included as part of the documents as listed above; if any	j. All provisions required by law to be inserted in this Contract whether inserted or not

This Agreement, together with other Documents enumerated in this Article 3, which said other Documents are as fully part of the Contract as if hereto attached or herein repeated, form the Contract between the parties hereto. If any provision in any component part of this Contract conflicts with or varies from any other component part, the City shall determine which shall control and its decision shall be final.

ARTICLE 4. COMMENCEMENT AND PROSECUTION OF THE WORK

The Contractor must commence work within ten (10) days after the date specified in a written Notice to Proceed signed by the City, and completed within 365 days, the time of completion specified in Schedule "A" to this Agreement. The time for performance of the work under the Contract shall be computed from such date specified on the Notice to Proceed.

ARTICLE 5. PROGRESS SCHEDULE

- A. To enable the work to be laid out and performed in an orderly and expeditious manner, the Contractor, within fifteen (15) days after the date of the Notice of Award of this Contract, unless otherwise directed by the Engineer, shall submit to the Engineer a proposed progress schedule, showing:
- 1) The anticipated time of commencement and completion of each of the various operations to be performed under this Contract; and
 - 2) The sequence and interrelation of each of these operations with the others and with those of other related Contracts; and
 - 3) The estimated time required for fabrication or delivery, or both, of all materials and equipment required for the work.
- B. The proposed schedule shall be revised as directed by the Engineer, until finally approved by him, and after such approval, shall be strictly adhered to by the Contractor.

ARTICLE 6. TIME OF COMPLETION; LIQUIDATED DAMAGES

- A. The work shall commence as specified in the Notice to Proceed and shall be completed within 365 days, the time of completion specified in Schedule "A" to this General Agreement.
- B. The date of commencement and the time for completion, as specified in the Contract, are essential conditions of the Contract.
- C. The Contractor shall perform the work regularly, diligently, and without interruption at such rate of progress as to insure timely completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing at the site.
- D. Should the contractor fail to timely commence or perform any work, or otherwise fail to timely carry out any directions consistent with the terms of the contract after written notice from the City, the City may have such work done or materials furnished by others and deduct the cost thereof from the monies due, or to become due under the Contract.
- E. If the Contractor shall fail to complete the work within the time specified, or any proper extension thereof the Contractor shall pay to the City, as a partial consideration for the Contract, the amount of \$0, as specified in the Contract as set forth in Schedule "A" to this General Agreement, not as a penalty, but as liquidated damages for breach of contract, for each and every calendar day that the Contractor shall be in default.
- F. The amount of liquidated damages is agreed upon by and between the Contractor and the City as set forth in this Article, and in Schedule "A" because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages which the City would sustain in said event and such amount is agreed to be in the amount of damages which the City or its beneficiaries would sustain and said amount shall be retained by the City.
- G. In the event the Contractor shall fail to complete the work within the time fixed for such completion in this Article, and Schedule "A" to this General Agreement, plus authorized time extensions, or if the Contractor, in the sole determination of the City, has abandoned the work, the Contractor must pay to the City the sum fixed in this Article, and the Schedule "A" to this General Agreement, for each and every calendar day that the time consumed in completing the work exceeds the time allowed therefore.
- H. Liquidated damages received hereunder are not intended to be nor shall they be treated as either a partial or full waiver or discharge of the City's right to indemnification under Article 14, or the Contractor's obligation to otherwise indemnify the City, or to any other remedy provided for by Contract or by law.
- I. The City will deduct and retain out of the moneys which may become due hereunder, the amount of such liquidated damages; and in case the amount which may become due hereunder shall be less than the amount of liquidated damages suffered by the City, the Contractor shall be liable to pay the difference upon demand by the City.

- J. Time is of the essence for each and every portion of the work. In any instance in which additional time is allowed for completion, the new time of completion established by the relevant change order shall be of the essence. The Contractor shall not be charged with liquidated damages or any excess cost if the Engineer determines in writing that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the City. In any event, the Contractor shall not be charged with liquidated damages or any excess cost if the delay in completion is due to an unforeseeable cause beyond the control and without the fault of, or negligence of the Contractor, and approved by the City, including, but not limited to Acts of God or of public enemy, acts of the City, epidemics, quarantine, restrictions, strikes, freight embargoes and unusually severe weather.
- K. The time for completion can only be extended by change order pursuant to Article 21 and may be extended for all the work, or only that portion of the work altered by the change order.
- L. If one of several causes of delay operating concurrently results from any act, fault or omission of the Contractor or its subcontractors or material men, and would of itself (irrespective of the concurrent causes) have delayed the work, no extension of time will be allowed for the period of delay resulting from such act, fault or omission.
- M. Permitting the Contractor to continue with the work after the time for its completion has expired, or after the time to which such completion may have been extended has expired, or the making of any payment to the Contractor after such time, shall in no way operate as a waiver on the part of the City of any of its rights under this Contract.
- N. Application for Extension of Time
- 1) Before a change order for the time extension request may be approved, the Contractor must, within five (5) days after commencement of the condition which allegedly has caused or is causing the delay, submit a written application to the Engineer identifying:
 - a) the Contractor, the Contract number, and project description;
 - b) liquidated damages assessment rate, as specified in the Contract;
 - c) original bid amount;
 - d) the original Contract start date and completion date;
 - e) any previous time extensions granted (number and duration); and
 - f) the extension of time requested.
 - 2) In addition, the application for extension of time shall set forth in detail:
 - a) the nature of each alleged cause of delay in completing the work;
 - b) the date upon which each such cause of delay began and ended and the number of days attributable to each such cause;
 - c) a statement that the Contractor waives all claims except for those delineated in the application, and the particulars of any claims which the Contractor does not agree to waive, and
 - d) a statement indicating the Contractor's understanding that the time extension is granted only for the purpose of permitting continuation of Contract performance and payment for work performed and that the City retains its right to conduct an investigation and assess liquidated damages as appropriate in the future.
- O. Notwithstanding the procedures set forth in this Article, the Engineer in his discretion can grant a one-time extension, in writing, not to exceed 30 days.

ARTICLE 7. DEFINITIONS

The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Contract, be construed as follows, unless a different meaning is clear from the context: (*The use of any third person pronoun is not meant to be gender indicative.)

"ADDENDUM" or **"ADDENDA"** shall mean the additional Contract provisions issued in writing by the City prior to the receipt of bids.

"BOARD OF CONTRACT and SUPPLY" shall have the meaning set forth in Article 9 below.

"CITY" shall mean the City of Yonkers.

"CONTRACT" or **"CONTRACT DOCUMENTS"** shall mean each of the various parts of the Contract referred to in Article 3 hereof, both as a whole and severally.

"CONTRACTOR" shall mean the party defined in the preamble hereto, whether corporation, firm or individual, or any combination thereof, and its, their or his* successors, personal representatives, executors, administrators and

assigns, and any person, firm or corporation who or which shall at any time be substituted in its place under this Contract.

“CONTRACT DRAWINGS” shall mean only those drawings specifically entitled as such and listed in the specifications or in any addendum, or any detailed drawings furnished by the Engineer, pertaining or supplemental thereto.

“CONTRACT WORK” shall mean everything required to be furnished and done by the Contractor by any of the parts of the Contract referred to in Article 3 hereof, except Extra Work as herein defined; it being understood that in case of any inconsistency in or between any part or parts of this Contract, the Engineer shall determine what shall prevail.

“ENGINEER” shall have the meaning set forth in Article 8 below.

“EXTRA WORK” shall mean work needed to complete the project that was not required by the Contract at time of its execution.

“FINAL ACCEPTANCE” shall mean acceptance by the City of the Work as evidenced by written approval of the Engineer.

“LAW” or **“LAWS”** shall mean the Constitutions of the United States and the State of New York, the Yonkers City Charter and Code, a statute of the United States or the State of New York, a local law of the City of Yonkers, and any ordinance, rule, regulation or judicial decision having the force of law.

“MATERIALMAN” shall mean any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor, or any Subcontractor to fabricate or deliver or who actually fabricates or delivers plant, materials or equipment to be incorporated in the work.

“MEANS AND METHODS OF CONSTRUCTION” shall mean the labor, materials in temporary structures, tools, plant and construction equipment, and the manner and time of their use, necessary to accomplish the result intended by this Contract.

“MATERIAL IN SHORT OR CRITICAL SUPPLY” shall mean material, as determined by the City upon written application by the Contractor pursuant to the terms of the Contract, which is not generally available in a timely manner to permit completion of the work.

“MATERIAL SPECIFICALLY FABRICATED” shall mean material, as determined by the City upon written application by the Contractor pursuant to the terms of the Contract, which is not generally available as a standard item(s) without special fabrication.

“OTHER CONTRACTORS” shall mean any Contractor (other than the “Contractor” as defined herein or his Subcontractors) who has a contract with the City for work on or adjacent to the building or site of the work.

“PROJECT” shall mean the public improvement to which this Contract relates.

“REQUIRED QUANTITY” in a unit price Contract shall mean the actual quantity of any item of work or materials which is required in order to comply with the Contract.

“SITE” shall mean the area upon or in which the Contractor’s operations are carried on, and such other areas adjacent thereto as may be designated as such by the Engineer.

“SPECIFICATIONS” shall mean all of the directions, requirements and standards of performance applying to the work needed to complete the Project.

“SUBCONTRACTOR” shall mean any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or his Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site.

“THE WORK” shall mean everything required to be furnished and done by the Contractor under the Contract and shall include both Contract Work and Extra Work.

ARTICLE 8. POWERS OF THE CITY ENGINEER

A. The City Engineer (hereinafter “Engineer”) or his designee shall be the representative of the City at the site and shall have the power, in the first instance, to inspect the performance of the work. The Engineer shall give all orders and directions contemplated under the Contract relative to the execution of the work. The Engineer shall have the power to supervise and control the performance of the work as contemplated under the Contract.

B. The Engineer, in addition to those matters elsewhere herein delegated to the Engineer and expressly made subject to his determination, direction or approval, shall have the power:

- 1) To determine the amount, kind, quality, and location of the work to be paid for hereunder;

- 2) To determine all questions in relation to the work, to interpret the Contract Drawings, Specifications and Addenda, and to resolve all inconsistencies or ambiguities therein;
 - 3) To determine how the work of this Contract shall be coordinated with work of other contractors engaged simultaneously on this project, including the power to suspend any part of the work, but not the whole thereof;
 - 4) To make changes in the work as the Engineer deems necessary, including the issuing of change orders for extra work, as designated in writing by the City through the Board of Contract and Supply;
 - 5) To omit Contract work whenever it deems it in the interest of the City to do so provided, however, such omitted work shall not be performed by another contractor during the life of this Contract;
 - 6) To amplify the Contract Drawings, add explanatory information and furnish additional specifications and drawings consistent with the intent of these Contract Documents;
- C. The foregoing enumeration shall not imply any limitation upon the power of the Engineer, for it is the intent of this Contract that all of the work shall generally be subject to his determination, direction and approval, except where the determination, direction or approval of someone other than the Engineer is expressly called for herein.

ARTICLE 9. POWERS OF THE CITY BOARD OF CONTRACT AND SUPPLY ("BOCS")

The Board of Contract and Supply of the City of Yonkers shall have the powers set forth in the City Code and as set forth herein. The Board of Contract and Supply in addition to those matters elsewhere herein expressly made subject to its determination, direction or approval, shall have the power:

- A. To approve the performance of change orders for extra work;
- B. To approve the use of all Subcontractors proposed by the Contractor;
- C. To hold the Contractor in default and/or to terminate the Contract; and,
- D. To approve the assignment of the Contract.

ARTICLE 10. WORKMANSHIP AND MATERIALS

- A. The Contractor shall, in a good workmanlike manner, perform all the work required by the Contract within the time specified in the Contract to the satisfaction of the City.
- B. The Contractor shall provide, erect, maintain, and remove such construction, plant and temporary work as may be required. The Contractor shall be responsible for the safety, efficiency, and adequacy of the Contractor's plant, appliances and methods, and for damage which may result from failure or improper construction, maintenance or operation of said plant, appliances and methods.
- C. Contractor's Title to Materials
 - 1) No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that the Contractor has full, good and clear title to all materials and supplies used by the Contractor in the work, or resold to the City pursuant to the Contract free from all liens, claims or encumbrances.
 - 2) All materials, equipment and articles which become the property of the City shall be new unless specifically stated otherwise.
- D. "Or Equal" Clause
 - 1) Whenever a material, article or piece of equipment is identified on the plans or in the specification by reference to manufacturers' or vendors' names, trade names, catalogue number, or make, said identification is intended to establish a standard. Any materials, articles or equipment of other manufacturers and vendors which performs the same duties imposed by the general design may be considered equally acceptable provided that, in the opinion of the City, the material, article or equipment so proposed is of equal quality, substance and function and the Contractor shall not provide, or install any such proposed material, article or equipment without the prior written approval of the City.
 - 2) Where the City, pursuant to the provisions of this Article, approves a product proposed by the Contractor and the proposed product requires a revision or redesign of any part of the work, all such revisions and redesigns and all new drawings, and details required therefore shall be provided by the Contractor and shall be approved by the City. Where the City, pursuant to the provisions of this Article, approves a product proposed by the Contractor and the proposed product results in additional work or added costs, the Contractor proposing the product is solely responsible for such costs and added work.
- E. Quality, Quantity and Labeling
 - 1) The Contractor shall furnish materials and equipment of the quality and quantity specified in the Contract.

- 2) When materials are specified to conform to any standard, the materials delivered to the Site shall bear manufacturer's labels stating that the materials meet such standards.
- 3) The above requirements shall not restrict or affect the City's right to test materials as provided in the Contract.

F. Payment for Concrete of Deficient Strength

- 1) The Contractor recognizes the fact that the concrete mix specified was selected to yield concrete of desired strength and durability and the Contractor agrees that should he fail to supply concrete of the specified strength in the construction, that the deficiency in strength will result in construction of which the durability and useful life are impaired, and he further agrees that the City will suffer damages due to such impairment of durability and curtailment of useful life. Since the City will suffer by reason of such loss of durability and useful life, it is further agreed that the City will deduct and retain out of such moneys as may become due hereunder the amount determined in the manner as hereinafter set forth.
- 2) The Contractor agrees that the strength of the concrete shall be determined by test cylinders made and tested in accordance with the specifications and he further agrees that said cylinders so made and tested give a reasonably satisfactory index of the strength of the concrete as incorporated in the construction. Such tests are to be paid for by the Contractor.
- 3) The Contractor hereby agrees that the concrete mix proportions indicated in the specifications are for the Contractor's guidance only and they represent proportions which, in the experience of the City and other responsible public agencies, have given the strengths specified, using locally available sands and coarse aggregates and commercially available cements.
- 4) Before the Contractor begins to manufacture concrete, he shall secure the Engineer's approval of the formula he proposes to use, and he shall certify such formula to the Engineer as yielding concrete of the desired strength, density and workability, but in no case shall the cement be less, nor the water/cement ratio more than that specified.
- 5) He shall submit for this purpose a statement in writing of the sources of all ingredient materials, the type and brand of the cement, and the number of pounds of each of the materials in a saturated surface dry condition, making up one (1) cubic yard of concrete. The range of water/cement ratios within which the concrete will be manufactured and the method of mixing to be employed shall also be stated.
- 6) The formula as finally approved shall not be changed without the written permission of the Engineer.

ARTICLE 11. CONTRACTORS

A. Superintendence by Contractor

- 1) The Contractor shall employ a full-time competent construction superintendent and necessary staff; the construction superintendent shall devote full time to the work and shall have full authority to act for the Contractor at all times.
- 2) If at any time the superintendent is not satisfactory to the City, the Contractor shall, if requested in writing by the City, replace said superintendent with another superintendent satisfactory to the City.

B. Subsurface or Site Conditions Found Different

- 1) The Contractor acknowledges that the Contract consideration includes such provisions which the Contractor deems proper for all subsurface or site conditions the Contractor could reasonably anticipate encountering as indicated in the Contract, or borings, reports, rock cores foundation investigation reports, topographical maps or other information available to the Contractor or from the Contractor's inspection and examination of the site prior to submission of bids.
- 2) Should the Contractor encounter subsurface or site conditions at the site materially differing from those shown on or described in or indicated in the Contract, the Contractor shall immediately give notice to the Engineer of the differing conditions and shall not disturb the differing conditions until directed to do so by the City.

C. Verifying Dimensions

- 1) The Contractor shall take all measurements at the site and shall verify all dimensions at the site before proceeding with the work. If said dimensions are found to be in conflict with the Contract, the Contractor immediately shall give notice to the City. The Contractor shall comply with any revised Contract Documents.
- 2) During the progress of work, the Contractor shall verify all field measurements prior to fabrication of building components or equipment, and proceed with the fabrication to meet field conditions.
- 3) The Contractor shall consult all Contract Documents to determine exact location of all work and verify spatial relationships of all work. Any question concerning location or spatial relationships may be submitted to the Engineer in a manner approved by the Engineer.
- 4) Special locations for equipment, pipelines, ductwork and other such items of work, where not dimensioned on plans, shall be determined in consultation with the Engineer.

5) The Contractor shall be responsible for the proper fitting of the Work in place.

D. Meetings

The Contractor shall attend all scheduled progress meetings and any other special meetings as directed by the Engineer at no additional cost to the City.

E. Related Work

The Contractor shall examine the Contract for related work to ascertain the relationship of said work to the Work under the Contract.

F. Surveys and Layout

Unless otherwise expressly provided in the Contract, the City shall furnish the Contractor all surveys of the property necessary for the work. The Contractor shall be responsible for the layout of the work.

G. Errors, Ambiguities or Discrepancies

The Contractor shall examine the Contract thoroughly before commencing the work and promptly report any errors, ambiguities or discrepancies to the City. Failure of the Contractor to do so shall result in a waiver of any claim by the Contractor based on such errors, ambiguities or discrepancies.

ARTICLE 12. INSPECTION AND ACCEPTANCE

A. Access to Work

The City shall at all times have access to the work and the Contractor shall maintain such access during the work on the project.

B. Notice for Testing

If the Contract Documents, the City's instructions, laws, rules, ordinances, or regulations, require that any work be inspected or tested, the Contractor shall give the City timely notice of readiness of the work for inspection or testing and the date fixed for said inspections or testing.

C. Reexamination of Work

Reexamination of any part of the work may be ordered by the City, and if so ordered the work must be uncovered by the Contractor. If such work is found to be in accordance with the Contract, the City shall pay the cost of reexamination and if such work is not found to be in accordance with the Contract, the Contractor shall pay or be back-charged for the cost of reexamination and replacement.

D. Inspection of Work

- 1) All work, all materials whether or not incorporated in the work, all processes of manufacture, and all methods of construction shall be, at all times and places, subject to the inspection of the City, and the City shall judge the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which such work, materials, processes of manufacture and methods of construction are used. The City may direct that any work not approved by the City shall, at no cost to the City, be immediately removed, reconstructed, made good, replaced or corrected by the Contractor to the satisfaction of the City. This corrective work shall include all work of any third party destroyed or damaged by such removal or replacement. Rejected material shall be removed immediately from the site at no extra cost to the City. Acceptance of material and workmanship by the City shall not relieve the Contractor from the Contractor's obligation to replace all work which is not in full compliance with the Contract. The Contractor is to provide any assistance necessary, such as the erection of ladders or platforms, for the Engineer to conduct inspections of the work.
- 2) If after inspection the City determines that it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work, injured or not performed in accordance with the Contract, the compensation to be paid to the Contractor shall be reduced by an amount which, the City deems equitable.

E. Testing

All materials and equipment used in the work shall be subject to inspection and testing in accordance with accepted standards to establish conformance with specifications and suitability for uses intended, unless otherwise specified in the Contract. If any work shall be covered or concealed without the approval or consent of the City, that work shall, if directed by the City, be uncovered for examination. Any inspection by the City or by a testing laboratory on behalf of the City does not relieve the Contractor of the responsibility to maintain quality control of materials, equipment and installation to conform to the requirements of the Contract. If any test results are below accepted standards, the City may order additional testing. The cost of said additional testing, any additional professional services required, and any other expenses incurred by the City as a result of such additional testing, shall be paid by the Contractor.

F. Acceptance

No previous inspection shall relieve the Contractor of the obligation to perform the work in accordance with the Contract. No payment, either partial or full, by the City to the Contractor shall excuse any failure by the Contractor to comply fully with the Contract. The Contractor shall remedy all defects, and shall incur the cost of any damage to other work resulting there from.

G. Manufacturer's Guarantee

The Contractor shall secure from the manufacturers of all equipment and materials required under the Contract such manufacturer's standard warranties and guarantees (or such other warranties and guarantees as the specifications may require) in the name of the City of Yonkers and shall deliver the same to the City Engineer.

ARTICLE 13. PROTECTION OF WORK AND OF PERSONS AND PROPERTY; INDEMNIFICATION

- A. During performance and up to the date of final acceptance, the Contractor shall be under an absolute obligation to protect the finished and unfinished work against any damage, loss or injury; and, in the event of such damage, loss or injury he shall promptly replace or repair such work, whichever the City shall determine to be preferable. The obligation to deliver finished work in strict accordance with the Contract prior to final acceptance shall be absolute and shall not be affected by the City's approval of or failure to prohibit means and methods of construction used by the Contractor.
- B. During performance and up to the date of final acceptance, the Contractor must take all reasonable precautions to protect the persons and property of the City and of others from damage, loss or injury resulting from contractor's or subcontractor's performance under this Contract, except such property as the owners thereof may themselves be under legal duty to protect. The Contractor's obligation to protect shall include the duty to provide, place and adequately maintain at or about the site suitable and sufficient guards, lights, barricades and enclosures.
- C. Within three (3) days after notice to it of the happening of any such loss, damage or injury to work, persons or property, or accidents, the Contractor shall make a full and complete report thereof, in writing to the City. The Contractor shall notify the City, in writing, of any loss, damage or injury to work, persons or property, or any accidents on the site within twenty-four (24) hours of the occurrence.
- D. If the persons or property of the City or of others sustain loss, damage or injury resulting from the Contractor's, or its Subcontractor's performance of this Contract, or from its or their failure to comply with any of the provisions of this Contract or of law or out of its or their negligent acts or omissions, the Contractor shall defend and indemnify and hold the City, its officers, employees, elected and appointed officials and agents, harmless from any and all claims and judgments for loss, damages or injuries and from costs and expenses which include attorneys fees to which the City may be subjected or which may suffer or incur by reason thereof.
- E. The provisions of this Article shall not be deemed to create any new right of action in favor of third parties against the Contractor, or the City.
- F. The Contractor shall protect all adjoining property and shall repair or replace any property damaged or destroyed during the progress of the Work at no cost to the City.
- G. Construction Site Emergency

A construction site emergency is defined as an unforeseen condition or event requiring prompt action by the Contractor. Construction site emergencies include, but are not limited to, construction related accidents; uncontrolled release of asbestos, lead dust or other hazardous materials; natural disasters; automobile accidents; floods and fire

The Contractor must notify the City of a construction site emergency, within a half-hour of the occurrence of the event, in accordance with the following:

- 1) If the emergency occurs during regular business hours the Contractor must notify the Engineer and call the City's Action Center at (914) 377-4357, or
- 2) During non-business hours the emergency shall be reported by the Contractor to the City Action Center at (914) 377-4357 and to the Yonkers Police Department through 911; and shall also be reported to the Engineer at the earliest opportunity.

ARTICLE 14. COORDINATION WITH OTHER CONTRACTORS

- A. During the process of the work, other contractors may be engaged in performing other work or may be awarded other Contracts for additional work on this project. In that event, the Contractor shall coordinate the work to be done hereunder with the work of such other contractors and the Contractor shall fully cooperate with such other contractors and carefully fit its own work to that provided under other contracts as may be directed by the Engineer. The

Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor.

- B. If the Engineer shall determine that the Contractor is failing to coordinate his work with the work of the other contractors as the Engineer directed, then the City shall have the right to withhold any payments otherwise due hereunder until the Contractor completely complies with the Engineer's directions.
- C. If the Contractor notifies the Engineer in writing that another contractor on this project is failing to coordinate his work with the work of this Contract as directed, the Engineer must promptly investigate the charge. If the Engineer finds it to be true, he must promptly issue such directions to the other contractor with respect thereto as the situation may require. The City shall not, however, be liable for any damages suffered by the Contractor by reason of the other contractor's failure to promptly comply with the directions so issued by the Engineer, or by reason of another contractor's default in performance, it being understood that the City does not guarantee the responsibility or continued efficiency of any contractor.
- D. The Contractor shall indemnify and hold the City harmless from any and all claims of judgments for damages and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason of the Contractor's failure to comply with the Engineer's directions promptly; and the City shall have the right to exercise the powers reserved herein with respect to any claims which may be made for damages due to the Contractor's failure to comply with the Engineer's direction promptly.
- E. Should the Contractor sustain any damage through any act or omission of any other contractor having a contract with the City for the performance of work upon the site or of work which may be necessary to be performed for the proper execution of the work to be performed hereunder, or through any act or omission of a subcontractor of such Contract, the Contractor shall have no claim against the City for such damage.
- F. Should any other contractor having, or who shall hereafter have, a contract with the City for the performance of work upon the site sustain any damage through any act or omission of the Contractor hereunder or through any act or omission of any subcontractor of the Contractor, the Contractor agrees to reimburse such other contractor for all such damages and to defend at his own expense any suit based upon such claim and if any judgment or claims against the City shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith and shall indemnify and hold the City harmless from all such claims.
- G. The City's right to indemnification hereunder shall in no way be diminished, waived or discharged, by its recourse to assessment of liquidated damages provided in this General Agreement, or by the exercise of any other remedy provided for by law.

ARTICLE 15. NO DAMAGE FOR DELAY

The Contractor agrees to make no claim for damages for delay in the performance of this Contract occasioned by any act or omission to act of the City or any of its representatives, and agrees that any such claim may be fully compensated for by an extension of time to complete performance of the work as provided herein.

ARTICLE 16. OCCUPATION OR USE PRIOR TO COMPLETION

If, before the final completion of all the work contemplated herein, it shall be deemed necessary by the City to take over, use, occupy or operate any part of the completed or partly completed work, the City shall have the right to do so and the Contractor will not in any way interfere with or object to the use, occupation or operation of such work by the City after receipt of notice in writing that such work or part thereof will be used by the City on and after the date specified in such notice. Should such action be taken by the City, the Contractor's guarantee on that part of the work placed into use shall begin on the date such use by the City shall begin (and the Contractor shall be entitled to a return of so much of the retained percentages as have been withheld by the City, as security for the faithful performance of the work which the City may take over, use, occupy or operate under this Article, except so much thereof as may be retained under Article 20 hereof). Immediately prior to such occupancy or use, inspection of the part to be occupied or used will be made by the Engineer, and the Contractor will be furnished in writing with a statement of the work, if any, still to be done on such part.

ARTICLE 17. SUBCONTRACTS

- A. The Contractor shall not make subcontracts totaling in amount more than the percentage specified in the Schedule "A" of this General Agreement of the total Contract price without special written permission from the Board of Contract and Supply.
- B. Before making any subcontracts, the Contractor must submit a written statement to the Engineer giving the name and address of the proposed Subcontractor, the portion of the work and materials which he is to perform and furnish, the

cost of the subcontract and any other information tending to prove that the proposed Subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and conditions of this Contract. All Subcontractors must be approved by the Board of Contract and Supply.

- C. If an approved Subcontractor elects to subcontract any portion of his subcontract, the proposed sub-subcontract shall be submitted in the same manner as directed above. Wherever the word Subcontractor appears herein, it also means sub-subcontractor.
- D. The proposed Subcontract will be submitted to the Board of Contract and Supply for approval at the next regularly scheduled meeting. The City will notify the Contractor as soon as possible after the Board of Contract and Supply acts whether the proposed Subcontractor is approved. If the proposed Subcontractor is not approved, the Contractor may thereupon submit another proposed Subcontractor unless he decides to do the work himself.
- E. The City's approval of a Subcontractor shall not relieve the Contractor of any of his responsibilities, duties and liabilities hereunder. The Contractor shall be solely responsible to the City for the acts or defaults of his Subcontractor and of such Subcontractor's officers, agents and employees, each of who shall, for this purpose, be deemed the agent or employee of the Contractor to the extent of his Subcontract.
- F. No Subcontractor shall be permitted on the site unless he is approved, nor shall any Subcontractor be permitted to perform work at the site unless he has furnished satisfactory evidence of insurance covering Workmen's Compensation, Public Liability and Property Damages as required. Acceptable indication of such insurance is being a named insured on the Contractor's insurance.
- G. The Contractor shall promptly, upon request, file with the Engineer a confirmed copy of the Subcontract, with cost of Subcontract.
- H. Before entering into any Subcontract hereunder, the Contractor shall inform the Subcontractor fully and completely of all provisions and requirements of this Contract relating either directly or indirectly to the work to be performed and the materials to be furnished under such Subcontract, and every such Subcontract shall expressly stipulate that all labor performed and materials furnished thereunder shall strictly comply with the requirements of this Contract.
- I. The Contractor shall require all agreements with or between Subcontractors to be in writing. Every Subcontract shall provide expressly that such Subcontract (and all rights of any Subcontractor thereunder) is subject in all respects whatsoever to all requirements of this Contract and that all work under the Subcontract shall comply with all requirements of this Contract. Each Subcontract shall include a provision authorizing termination for necessity or convenience by the Contractor and a provision under which the Subcontractor agrees that the Subcontractor's obligations shall be assigned to the City, at the City's election, upon a termination of Contractor's rights to perform the Contract. Each Subcontract shall contain the same terms and conditions as to method of payment for work, and as to retained percentages, as are set forth in this Contract; and Contractor shall pay each Subcontractor in accordance with the terms of the applicable subcontract for work performed by Subcontractor.
- J. The Contractor's execution of any Subcontract shall be deemed a representation to the City that the Contractor (1) has informed the Subcontractor fully and completely of all requirements of this Contract relating directly or indirectly to the Subcontractor's Work and (2) has taken all steps necessary to ensure that each and every Subcontractor meets the minimum qualifications required by the City of any Contractor submitting bids for any City work.

ARTICLE 18. ASSIGNMENTS

The Contractor shall not assign, transfer, convey or otherwise dispose of this Contract; or his right to execute it, or his right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise any of the moneys due or to become due under this Contract, unless the previous written consent of the Board of Contract and Supply shall first be obtained thereto, and the giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments.

Failure to obtain the previous written consent of the City to such an assignment, transfer or conveyance, shall justify the City's revocation and annulment of this Contract. The City shall thereupon be relieved and discharged from any further liability and obligation to the Contractor, his assignees or transferees, and all moneys previously earned and unpaid under the Contract shall be forfeited to the City except so much thereof as may be necessary to pay the Contractor's employees.

ARTICLE 19. INSURANCE

During performance and up to the date of final acceptance, the Contractor must effect and maintain insurance of the kind and at the limits set forth in Schedule "A" to this General Agreement.

ARTICLE 20. MAINTENANCE AND GUARANTY; REPLACEMENT OF DEFECTIVE WORK

- A. The Contractor must promptly repair, replace, restore or rebuild, as the Engineer may determine, any finished work in which defects of materials or workmanship may appear or to which damage may occur because of such defects, during the one year period subsequent to the date of final acceptance except where other periods of maintenance and guarantee are provided for.
- B. As security for the faithful performance of his obligation hereunder, the Contractor, upon filing his requisition for final payment, shall deposit with the City, a sum equal to one (1) percent of the Contract price (or such other amount fixed in Schedule "A" to this General Agreement in cash or certified check upon a State or National Bank and Trust Company or a check of such Bank and Trust Company signed by a duly authorized officer thereof and drawn to the order of the City.
- C. In lieu of the above the Contractor may make such security payment to the City by authorizing the City in writing to deduct the amount from the final payment which shall be deemed the deposit required above.
- D. If the Contractor has faithfully performed all his obligations hereunder, the sum shall be repaid to the Contractor without interest within thirty (30) days after the City determines the Contractor has faithfully performed all his obligations hereunder.
- E. Notice by the City to the Contractor to repair, replace rebuild or restore such defective or damaged work shall be timely if given not later than ten (10) days subsequent to the expiration of the one (1) year period or other periods provided for in Schedule "A" to this General Agreement.
- F. If the Contractor shall fail to repair, replace, rebuild or restore such defective or damaged work promptly after receiving such notice, the City shall have the right to have the work done by others in the same manner as provided for in Article 42 hereof and to deduct the cost thereof from the amount as deposited hereunder. The balance, if any, shall be returned to the Contractor without interest.
- G. Should the amount so deposited be insufficient to cover the cost of such work, the Contractor shall be liable to pay such deficiency on demand by the City.
- H. The Engineer's certificate setting forth the fair and reasonable cost of repairing, replacing, rebuilding or restoring any damaged or defective work when performed by one(s) other than the Contractor shall be binding and conclusive as to the amount thereof upon the Contractor.

ARTICLE 21. CONTRACT CHANGES

- A. Changes may be made to this Contract only as duly authorized by the City through its Board of Contract and Supply. Contractors deviating from the requirements of an original contract without a duly approved change order document, or written contract modification or amendment, do so at their own risk. All such changes, modifications and amendments will become a part of the original contract. Any work so ordered must be performed by the Contractor.
- B. Contract changes will be made only for work necessary to complete the work included in the scope of the Contract, and for non-material changes to the scope of the Contract. Contract changes may include any contract revision deemed necessary by the City.
- C. The Contractor shall be entitled to a price adjustment for extra work performed pursuant to a written change order. If any part of the Contract is necessarily delayed by a change order, the Contractor may request, subject to Board of Contract and Supply approval, an extension of time for performance. Adjustments to price shall be computed in one or more of the following ways: (i) by agreement of a fixed price; (ii) by unit prices specified in the contract subject to the limitations herein; (iii) by time and material record; and/or (iv) in any other manner approved by the City.
- D. Where the cost of the change order has been negotiated in the absence of established cost history, the costs are subject to verification by audit. If the audit reveals that the Contractor's costs for change order work were inaccurately stated during negotiations, the City shall recoup the amount by which the costs were inaccurately stated, plus any costs incurred by the City to conduct the audit, by proportionately reducing the price of the change order. This remedy is not exclusive and is in addition to all other rights and remedies of the City.

ARTICLE 22. METHODS OF PAYMENT FOR EXTRA WORK

- A. Extra work for which there are applicable Contract unit prices will be paid for at such unit prices subject to the limitations set forth herein. Where there are no applicable Contract unit prices, subject to audit by the City, the price to be paid for extra work ordered by the City, and performed by the Contractor with his own forces, shall be the reasonable cost of:
 - 1) Necessary materials (including transportation to the site); plus

- 2) Necessary direct labor; plus
 - 3) All additional insurance required by reason of the performance of the extra work; plus
 - 4) Payments required to be made to labor organizations under existing labor agreements; plus
 - 5) Maintenance, operation, and rental of, or reasonable rental value of Contractor owned, necessary plant and equipment other than small tools (including gas, oil, coal, electric current, etc); plus
 - 6) Necessary installation and dismantling of such plant and equipment (including transportation to and from the site), if any items; plus
 - 7) Ten (10) percent of the total of Items 1 through 6 as compensation for all other items of cost or expense including administration, overhead, general superintendence, and small tools; plus
 - 8) Ten (10) percent of the total of Items 1 through 7 as compensation for profit, except that no percentage for overhead and profit will be allowed on payroll taxes or on the premium portion of overtime pay.
- B. Where there are no applicable unit prices for extra work ordered by the City and performed in whole or in part by other than the Contractor's own forces, the Contractor shall be paid, subject to audit by the City, only the actual and reasonable cost of such subcontracted work computed as outlined above, plus an additional allowance of five (5) percent to cover the Contractor's profit, superintendence, administration, insurance, and other overhead.
- C. Where a change is ordered, involving both extra work and omitted or reduced contract work, the contract price shall be adjusted, subject to audit by the City, in an amount based on the difference between the value of such extra work and of the work omitted or reduced. The cost of such extra work and of such omitted or reduced work shall be computed in accordance with Items 1 through 6 of this Article. If the cost of such work exceeds the cost of the work omitted or reduced, the contract price shall be increased by the difference, plus ten (10) percent thereof, as compensation for all other items of cost or expense including administration, overhead, superintendence, and small tools, plus an additional ten (10) percent of the total thereof as compensation for profit. If the cost of work omitted or reduced exceeds the cost of such extra work, then the contract price shall be reduced by such differences.
- D. Where the Contractor and the City can agree upon another method of payment for extra work, or for extra work ordered in connection with omitted or reduced work, such method, may, at the option of the City, be substituted for the cost plus a percentage method. However, if the work is performed by a Subcontractor, the Contractor shall not be entitled to receive more than an additional allowance of five (5) percent over and above the actual and reasonable cost of such Subcontractor's work.
- E. Unit Price Contracts
- 1) In Unit Price Contracts if during the progress of work, the actual quantity of items required to complete the work of any unit item approaches the estimated quantity, and due to errors, site conditions, changes in design or any other reason, it appears that the actual quantity necessary to complete the work will exceed the estimated quantity by 25 percent, the Contractor shall immediately notify the Engineer of such anticipated overruns.
 - 2) Contractors are warned that the Engineer's estimate of quantities on the various items of work and materials is approximate only, given solely to be used as a uniform basis for the comparison of bids, and is not to be considered part of this Contract. The quantities actually required to complete the Contract work may be less or more than so estimated, and if so, no action for damages or for loss of profits shall accrue to the Contractor by reason thereof.
 - 3) The Contractor shall not be compensated for work performed in excess of one hundred twenty five (125) percent of the estimated quantities in the bid schedule without written authorization of the Engineer.
 - 4) The Contractor will be paid at the unit price bid for quantities up to one hundred and twenty five (125) percent of the estimated quantities listed in the bid schedule. If quantities on any item exceed one hundred and twenty five (125) percent of the estimate, the City reserves the right and the Contractor agrees to renegotiate the unit price bid to a new unit price for such quantities. If the City and Contractor cannot agree to a new price then the City, if it requires additional units of the item, shall order the Contractor and the Contractor agrees to perform the additional work on a time and material basis established herein. In no event will the cost exceed the bid price.
- F. The Contractor shall furnish satisfactory invoices, payrolls and vouchers covering all items of cost relating to the Extra Work and when requested by the City shall give the City access to accounts and records relating thereto.

ARTICLE 23. DISPUTES

Claims for Extra Work

- A. If the Contractor claims that (i) any work which the Contractor has been ordered to perform will be Extra Work, (ii) the Contractor for any reason cannot comply with the terms and provisions of the Contract, or (iii) any action or omission

of the City is contrary to the terms and provisions of the Contract and will require the Contractor to perform Extra Work the Contractor shall:

- 1) Promptly comply with the City's direction to perform the work which the Contractor claims will be Extra Work.
 - 2) File with the City a notice of the basis of the Contractor's claim and request for a determination thereof, within seven (7) working days:
 - a) after being ordered to perform the work claimed by the Contractor to be Extra Work; or
 - b) after commencing performance of the work, whichever date shall be earlier; or
 - c) after the said action or omission on the part of the City occurred.
 - 3) Proceed diligently, pending and subsequent to the determination of the City with respect to any said disputed matter, with the performance of the work in accordance with all instructions of the City.
- B. No claim for Extra Work shall be allowed unless the same was done pursuant to a written order of the City. The Contractor's failure to comply with any parts of this Article shall be deemed to be:
- 1) a conclusive and binding determination on the part of the Contractor that said order, work, action or omission does not involve Extra Work and is not contrary to the terms and provisions of the Contract.
 - 2) a waiver by the Contractor of all claims for additional compensation or damages as a result of said order, work, action or omission.
- C. The value of claims for Extra Work, if allowed, shall be determined by the methods described in the Contract.

Compliance with the Contract

- A. In addition to the statements required under Article 24 hereof, or under this Article, the Contractor and his Subcontractor shall, upon notice from the City, produce for examination at the Contractor's or Subcontractor's office, by the representatives of the City, all his books of accounts, bills, invoices, payrolls, subcontracts, time books, daily reports, bank deposit books, bank statements, check books and canceled checks, showing all of his acts and transactions in connection with or relating to or arising by reason of this Contract, and submit himself and persons in his employment, for examination under oath by any person designated by the City to investigate claims made against the City under this Contract. At such examination a duly authorized representative of the contractor may be present.
- B. Unless such statements shall be made and filed within a timely manner and such records submitted for examination and the Contractor and his employees submit themselves for examinations as aforesaid, the City shall be released from all claims arising under, relating to or by reason of this Contract, except for the sum certified by the City to be due under the provisions of this Contract. It is further stipulated and agreed that no person has power to waive any of the foregoing provisions, and that in any action against the City to recover any sum in excess of the sums certified by the City to be due under or by reason of this Contract, the Contractor must allege in his complaint and prove, at the trial, compliance with the provisions of this section.
- C. In addition to the foregoing, after the commencement of any action by the Contractor arising under or by reason of this Contract, the City shall also have the right by its attorney, upon written notice from said attorney, to require the Contractor to produce for examination under oath by said attorney the above described books and documents of the Contractor and to submit himself and persons in his employ for examination under oath by said attorney.
- D. Unless the Contractor submits said records, himself and his employees for examination by the said attorney as aforesaid, the action of the Contractor shall be dismissed.

ARTICLE 24. PERFORMANCE OF EXTRA OR DISPUTED WORK

- A. While the Contractor or his Subcontractor is performing extra work ordered by the City under Article 21 hereof (unless payment therefore is to be made by a lump sum or at unit prices previously agreed upon) or is performing disputed work or complying with a determination or order under protest in accordance with Article 23 hereof, in each such case the Contractor shall furnish the Engineer daily with three (3) copies of written statements signed by the Contractor's representatives at the site showing:
- 1) The name and home telephone number of each worker employed on such work or engaged in complying with such determination or order, the number of hours employed thereon, and the character of the work each is doing; and
 - 2) The nature and quantity of any materials, plant and equipment furnished or used in connection with the performance of such work or compliance with such determination or order, and from whom purchased or rented.
- B. A copy of such statement will be countersigned by the Engineer, noting thereon any items not agreed to or questioned, and be returned to the Contractor within two (2) days after submission. The Contractor and his Subcontractors, when

required by the City, must also produce for inspection, at the office of the Contractor or Subcontractor; any and all of his books, vouchers, records, daily job diaries and reports, and canceled checks, showing the nature and quantity of the labor, materials, plant and equipment actually used in the performance of such work or in complying with such determination or order, and the amounts expended therefore, and must permit the City to make such extracts there from or copies thereof as the City may desire.

- C. Failure to comply strictly with these requirements shall constitute a waiver of any claims for extra compensation or damages on account of the performance of such work or compliance with such determination or order.

ARTICLE 25. OMITTED WORK

If any Contract work in a lump sum Contract, or if any part of a lump sum item in a unit price Contract, is omitted by the City, the Contract price shall be reduced by an amount equal to the estimated cost of such omitted work, computed in accordance with Items 1 through 6 of subpart A of Article 22, unless the Contractor and City can agree upon another method of fixing the value of such omitted work. If any Contract work in a unit price Contract, whether the whole of a lump sum item or units of any other item, is so omitted, no payment will be made therefore.

ARTICLE 26. NO ESTOPPEL

Neither the City nor any department, officer, agent or employee thereof, shall be bound, precluded or estopped by any determination, decision, approval, order, letter, payment or certificate made or given under or in connection with this Contract by the City, the Engineer, or any other officer, agent or employee of the City, either before or after the final completion and acceptance of the work and payment therefore:

- A. From showing the true and correct classification, amount, quality or character of the work actually done; or that any such determination, decision, order, letter, payment or certificate was untrue, incorrect or improperly made in any particular, or that the work or any part thereof does not in fact conform to the requirements of this Contract; and
- B. From demanding and recovering from the Contractor any overpayment made to him, or such damages as he may sustain by reason of his failure to perform each and every part of this Contract in strict accordance with its terms, or both.

ARTICLE 27. WAIVER, MODIFICATION AND APPROPRIATIONS

- A. Waiver: Waiver by the City of a breach of any provision of this Contract shall not be deemed to be a waiver of any subsequent breach and shall not be construed to be a modification of terms of the Contract unless and until the same shall be agreed to in writing by the City as required herein.
- B. Modification: This Contract may be modified by the parties in writing in a manner not materially affecting the substance hereof. It may not be altered or modified orally.
- C. Appropriations: This Contract shall be deemed executory only to the extent of the moneys appropriated and available for the purpose of the Contract, and no liability on account thereof shall be incurred by the Contractor beyond the amount of such moneys. It is understood that neither this Contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of the Contract.

ARTICLE 28. PARTIAL PAYMENTS

- A. The City may make a partial payment to the Contractor on the basis of an approved estimate of the work performed during each preceding business month. The City shall retain five percent (5%) of the amount of each estimate.
- B. As a condition precedent to payment, on a monthly basis in accordance with the agreement of the City, the Contractor shall submit a Request for Payment in a form acceptable to the Engineer and City Finance Commissioner. The City shall make all monthly partial payments based on the Engineer's review and approval of the Request for Payment form. Any partial payment made pursuant to the Request for Payment shall not be construed to signify acceptance of partially completed work or as a waiver of the right of the City to require the fulfillment of all the terms of the Contract.
- C. In preparing estimates for partial payment, material delivered to the site, and properly stored and secured at the site, material in short or critical supply or material specially fabricated and other material approved to be stored off-site under such conditions as the City shall prescribe may be taken into consideration. Unless otherwise provided by the City the conditions for payment of material stored off-site shall include but not be limited to the following: (a) the material shall be properly stored in a secured location approved by the City; (b) the material will be covered under the City's builder's risk policy, if any, subject to all policy limits and restrictions; and, (c) the material may be inspected

by the City to assure compliance with project specifications. In order to seek payment pursuant to this Article, the Contractor must by, a date approved by the Engineer, submit a list to the City of the material in short or critical supply, material specially fabricated for the work at the site, or material which for any other reason must be stored off-site; such list must be accompanied by a detailed backup substantiating the Contractor's position that it is material in short or critical supply, or material specially fabricated for work at the site and/or must be stored off-site. All costs related to the storage of materials, or material in short or critical supply or material specifically fabricated for the work at the site are the sole responsibility of the Contractor. In addition to the above, the Contractor must demonstrate that the material stored either at the site or off-Site has been paid for in full by the Contractor, and upon partial payment by the City becomes the sole property of the City.

ARTICLE 29. CONTRACTOR'S PAYMENT TO SUBCONTRACTORS

- A. The Contractor shall make prompt payment to the Subcontractors within fifteen (15) calendar days of the receipt of any payment from the City. The Contractor shall pay to each such Subcontractor that portion of the proceeds of such payment representing the value of the work performed by such Subcontractor, based upon the actual value of the subcontract, which has been approved and paid for by the City, less an amount necessary to satisfy any claims, liens, or judgments against such Subcontractor which have not been suitably discharged and less any amount retained by the Contractor as provided herein. For such purpose, the subcontract may provide that the Contractor may retain not more than five percent (5%) of each payment to such Subcontractor or not more than ten percent (10%) of each such payment if prior to entering into the subcontract such Subcontractor is unable or unwilling to provide, at the request of the Contractor, a performance bond and a labor and material bond both in the amount of the subcontract. Contractor warrants and represents that it will execute such certificate or statements as the City may require to prove compliance with this provision.
- B. Nothing herein shall relieve the Contractor from its obligation to complete the work, nor shall anything herein create any relationship in contract or otherwise, implied or expressed, between any Subcontractor and the City.

ARTICLE 30. FINAL PAYMENT

- A. As a condition precedent to receiving final payment for all work, the Contractor shall submit all required certificates and documents, together with a final requisition for the balance claimed to be due under the Contract, less any amount authorized to be retained for maintenance subsequent to final acceptance.
- B. Verified Statement of Claims: The Contractor must also submit with the final requisition a final verified statement of any and all alleged claims against the City, in any way connected with or arising out of this Contract (including those as to which details may have been furnished pursuant to Articles 13 and 23 hereof) setting forth with respect to each such claim the total amount thereof, the various items of labor and materials included therein, and the alleged value of each such item. With reference to each such claim, the City shall have the same right to inspect, and to make extracts or copies of, the Contractor's books, vouchers, records, etc., as is referred to in Articles 23 and 24 hereof. Nothing contained in this Article is intended to or shall relieve the Contractor from the obligation of giving timely notice of claims pursuant to Articles 23 and 24 hereof. The Contractor is warned that unless such claims are completely set forth as herein required, the Contractor upon acceptance of the final payment, pursuant to Article 31 hereof, will have waived any such claims.
- C. Preparation of Final Voucher: After receiving the notices required under Sections A and B herein, the Engineer will promptly make a final inspection. If, upon inspection, the Engineer determines that no further work is necessary, the Engineer will prepare and certify, subject to the approval of the Board of Contract and Supply, a voucher for final payment less any and all deductions authorized to be made under this Contract or by law. Payment pursuant to such final voucher, less any deductions authorized to be made under this Contract or by law, shall constitute final acceptance and final payment, and shall be made by the City within thirty (30) to ninety (90) days after approval of the Board of Contract and Supply, if required.

ARTICLE 31. ACCEPTANCE OF FINAL PAYMENTS

- A. The acceptance by the Contractor, or by anyone claiming by or through it, of the final payment, whether such payment be made pursuant to any judgment of any court, or otherwise, shall constitute and operate as a release to the City from any and all claims of, and liability to, the Contractor for anything heretofore done or furnished for or relating to or arising out of this Contract and the work done hereunder, and for any prior act, neglect or default on the part of the City or any of its officers, agents, or employees, excepting only a claim against the City for the amounts deducted or retained in accordance with the terms and provisions of this Contract or by law, and excepting a claim, not otherwise

waived, which is contained in the verified statement filed with the Contractor's final requisition pursuant to Article 30 hereof.

- B. The Contractor is warned that the execution by him of a release, in connection with the acceptance of the final payment, containing language pertaining to reserve claims other than those herein specifically excepted from the operation of this Article, or those for amounts deducted by the City, shall not be effective to reserve such claims, anything stated to the Contractor orally or in writing by any officer, agent or employee of the City to the contrary notwithstanding.
- C. Should the Contractor refuse to accept the final payment as tendered by the Comptroller, it shall constitute a waiver of any right to interest thereon.
- D. The Contractor, prior to commencing an action for breach of Contract must serve a detailed and verified statement of claim upon the City's Corporation Counsel not later than forty (40) days after the acceptance of such final payment. The statement shall specify the items upon which the claim will be based and any such claim shall be limited to such items.

ARTICLE 32. LIENS

Upon receipt of a lien, the City shall send Notice to the Contractor stating that a sum which shall be one and one-half (1 ½) times the amount stated to be due in the notice of lien shall be deducted from payments due the Contractor. This sum shall be withheld until the lien is discharged.

ARTICLE 33. WITHHOLDING OF PAYMENTS

- A. The City may withhold from the Contractor any part of any payment as may, in the judgment of the City, be necessary:
 - 1) to assure payment of just claims of any persons supplying labor or materials for the work;
 - 2) to protect the City from loss due to defective work not remedied; or
 - 3) to protect the City from loss due to injury to persons or damage to the work or property of others caused by the act or neglect of the Contractor. The City shall have the right to apply any amount so withheld, in such manner, as the City may deem proper to satisfy claims or to secure protection. Such application of the money shall be deemed payments for the account of the Contractor.
- B. The provisions of this Article are solely for the benefit of the City and any action or non-action hereunder by the City shall not give rise to any liability on the part of the City.

ARTICLE 34. EMPLOYEES

- A. The Contractor and its subcontractors shall not employ on the Contract work:
 - 1) Anyone who is not competent, faithful and skilled in the work for which he or she shall be employed; and whenever the City shall inform the Contractor, in writing, that any employee is, in the City's opinion, incompetent, unfaithful, or disobedient, he shall be discharged from the work forthwith, and shall not again be employed upon it; or
 - 2) Any labor, materials or means whose employment, or utilization during the course of this Contract, may tend to or in any way cause or result in strikes, work stoppages, delays, suspension of work or similar troubles by workers employed by the Contractor his Subcontractors, or by any of the trades working in or about the buildings and premises where work is being performed under this Contract, or by other Contractors or their Subcontractors pursuant to other Contracts, or on any other buildings or premises owned or operated by the City of Yonkers, its agencies, departments, boards or authorities. Any violation by the Contractor of this requirement may be considered as proper and sufficient cause for declaring the Contractor to be in default; or
 - 3) In accordance with Section 220 (3-e) of the Labor Law, the Contractor and his Subcontractors shall not employ on the work any apprentice unless he is registered individually, under a bona fide program registered with the New York State Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his work force on any job under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above shall be paid the wage rate determined by the classification of work he actually performed. The Contractor or Subcontractor will be required to furnish written evidence of the registration of his program and apprentices as well as all the appropriate ratios and wage rates, for the area of the construction prior to using any apprentices on the Contract work.

ARTICLE 35. AFFIRMATIVE ACTION POLICIES; EMPLOYER AND PROFESSIONAL RESPONSIBILITIES

- A. Affirmative Action: The Contractor shall comply with, and assist the City in implementing, all affirmative action policies set forth in the Contract as well as any such policies or regulations which may be issued or amended by the City from time to time, and all requirements under applicable Federal, State and Municipal statutes, and any applicable regulations thereunder, relating to equal employment opportunities for all individuals.
- B. Employer Responsibilities: The Contractor shall comply with the provisions of all applicable State and Municipal requirements and with all State and Federal laws applicable to the Contractor as an employer of labor or otherwise as well as any labor provisions set forth in this Contract.
- C. Professional Status Requirements: The Contractor shall comply, at its own expense, with all rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, Subcontractors and others employed to undertake and complete the work hereunder.

ARTICLE 36. LABOR LAW PROVISIONS

- A. The Contractor agrees, as required by Labor Law Sections 220 and 220-d, as amended, that:
 - 1) no laborer, worker or mechanic in the employ of the Contractor or any Subcontractor employed by the Contractor in the performance of this Contract shall be permitted or required to work more than eight (8) hours in any one (1) calendar day or more than five (5) days in any one week except in cases of extraordinary emergency, as defined in the Labor Law;
 - 2) the wages paid for a legal day's work to each laborer, worker or mechanic employed by the Contractor or any Subcontractor in the performance of this Contract shall not be less than the prevailing rate of wages as defined by law;
 - 3) each laborer, worker or mechanic employed by the Contractor or any Subcontractor in the performance of this Contract shall be provided the prevailing supplements as defined by law;
 - 4) the minimum hourly rate of wages to be paid and the minimum supplement to be provided to the laborers, workmen or mechanics employed in the performance of this Contract, either by the Contractor or any Subcontractor, shall not be less than that which shall be designated by the Commissioner of Labor of the State of New York; and
 - 5) the Contractor and any Subcontractor shall pay all employees engaged in the performance of this Contract in full, less legally required deductions, in accordance with Labor Law Section 220.3. All such payments shall be made in cash, except payment may be made by check to the extent permitted by law.
- B. The Contractor agrees that as required by Labor Law Section 220-e, in case of underpayment of wages or supplements to any worker engaged in the performance of this Contract by the Contractor or any Subcontractor, the City may withhold from the Contractor out of payments due any amount sufficient to pay such worker the differences between the wages and supplements required to be paid by the Labor Law and wages and supplements actually paid such worker for the total number of hours worked plus interest as provided in the Labor Law, and that the City may disburse such amount so withheld by the City for and on account of the Contractor to the employees to whom such amount is due. The Contractor further agrees that the amount to be withheld pursuant to this Paragraph B may be in addition to any other amounts permitted to be retained by the City.
- C. Prevailing Wage Enforcement: The Contractor agrees to pay for the cost of any investigation conducted by or on behalf of the City which discovers a failure to pay prevailing wages by the Contractor or its subcontractor(s). The Contractor also agrees, that should it fail or refuse to pay for any such investigation, the City is hereby authorized to deduct from the Contractor's account an amount equal to the cost of such investigation.
- D. Daily Sign-Out Log Requirements:
 - 1) Each day of the Contract Work, the Contractor and its subcontractors shall complete a Daily Sign-Out Log acceptable to the City for all their hourly employees performing work on the Project. In addition, the Contractor and its subcontractors shall insure that all employees listed on the daily log verify the information on the log applicable to them by signing next to their name.
 - 2) The Contractor and its subcontractors shall deliver the Daily Sign-Out Log originals to the Engineer or his representative at a frequency acceptable to that representative. However, the Contractor's and its subcontractors' log submissions must be current before the City will process the Contractor's Requests for Payments for any particular period.
- E. If during the performance of the work a harmful dust hazard is created for the elimination of which appliances or methods have been approved by the Industrial Board of Appeals of the State of New York, such appliances and methods shall be installed, maintained and effectively operated by the Contractor in compliance with Labor Law Section 222-a. If

Labor Law Section 222-a is not complied with, the City may void this Contract in which event the City shall have the same rights and remedies as it would have in the case of termination under this Contract in addition to any other rights and remedies of the City.

ARTICLE 37. NON-DISCRIMINATION PROVISIONS

- A. The Contractor agrees, as required by Labor Law Section 220-e of the Labor Law, and the City's Equal Employment Opportunity Policy, as amended, that by signing this Agreement, the Contractor agrees that it, or any person acting on its behalf:
- 1) will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation or gender identity with respect to all employment decisions including, but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, layoff, termination, and all other terms and conditions of employment;
 - 2) will not discriminate in the selection of Subcontractors on the basis of the owner's, partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, or sexual orientation; and
 - 3) will permit the City to have access to all relevant books, records and accounts for the purposes of investigation to ascertain compliance with such requirements.
- B. The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Contract or with any such requirements, such noncompliance shall constitute a material breach of this Contract. The Contractor further understands that, as provided in Section 220-e of the Labor Law, as amended, there may be deducted from the amount payable to it by the City under this Contract a penalty of fifty dollars (\$50.00) for each person for each calendar day during which said person was discriminated against or intimidated by reason of race, creed, color, disability, sex, or national origin in violation of the provisions of this contract. The City may impose any or all of the following sanctions:
- 1) disapproval of the Contractor;
 - 2) suspension or termination of this Contract;
 - 3) declaring the Contractor in default; or
 - 4) adoption and adherence to an employment program.
- C. The Contractor understands that, as provided in Section 220-e of the Labor Law, as amended, this Contract may be cancelled or terminated by the City, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms and conditions of this Contract with regard to discrimination on the basis of race, creed, color, disability, sex or national origin. The City may declare any contractor who has repeatedly failed to comply with Section 220-e of the Labor Law non-responsible.

ARTICLE 38. CITY'S RIGHT TO DECLARE CONTRACTOR IN DEFAULT

In addition to those instances specifically referred to in other Articles herein, the City shall have the right to declare the Contractor wholly or partially in default of the work and to terminate the Contract if:

- A. The Contractor becomes insolvent; or if
- B. The Contractor makes an assignment for the benefit of creditors pursuant to the statutes of the State of New York; or if
- C. A voluntary or involuntary petition in bankruptcy be filed by or against the Contractor; or if
- D. The Contractor fails as required by this Contract to commence work when notified to do so by the City; or if
- E. The Contractor shall abandon the work; or if
- F. The Contractor shall refuse to proceed with the work when and as directed by the Engineer; or if
- G. The Contractor shall without just cause reduce its working force to a number which, if maintained, would be insufficient, in the opinion of the City to complete the work in accordance with the approved Progress Schedule, and shall fail or refuse sufficiently to increase such working force when ordered to do so by the City; or if
- H. The Contractor shall subject, assign, transfer, convey or otherwise dispose of this Contract other than as herein specified; or if
- I. A receiver or receivers are appointed to take charge of the Contractor's property or affairs; or if
- J. The City shall be of the opinion that the Contractor is or has been unnecessarily, unreasonably or willfully delaying (i) the performance and completion of the work, or (ii) the award of necessary subcontracts, or (iii) the placing of necessary material and equipment orders; or if

- K. The City shall be of the opinion that the Contractor is or has been willfully or in bad faith violating any of the provisions of this Contract; or if
- L. The City shall be of the opinion that the Contractor is not or has not been executing the Contract in good faith and in accordance with its terms; or if
- M. The City shall be of the opinion that the work cannot be completed within the time herein provided therefore or within the time to which such completion may have been extended; provided, however, that the impossibility of timely completion is, in the Engineer's opinion, attributable to conditions within the Contractor's control; or if
- N. The work is not completed within the time herein provided therefore or within the time to which the Contractor may be entitled to have such completion extended.
- O. Before the City shall exercise the right to declare the Contractor in default by reason of the conditions set forth in Items numbered A, D, E, F, J, K, L, M and N the Contractor shall have an opportunity to be heard, on two (2) days notice, at which hearing the Contractor may have a stenographer present; provided, however that a copy of such stenographic notes, if any, shall be furnished to the City.

ARTICLE 39. TERMINATION BY THE CITY

In addition to the right to terminate in the event of a default under Article 38, the City may, at any time, terminate this Contract for the convenience of the City by written notice to the Contractor and in such event:

- A. The Contractor shall upon receipt of such notice, unless otherwise directed by the City:
 - 1) stop work on the date specified in the notice;
 - 2) take such action as may be necessary for the protection and preservation of the City's materials and property;
 - 3) cancel all cancelable orders for material, labor and/or equipment;
 - 4) assign to the City and deliver to the site or any other location designated by the City, any non-cancelable orders for material, labor and /or equipment that is not capable of use except in the performance of this Contract and has been specifically fabricated for the sole purpose of this Contract and not incorporated in the work;
 - 5) take no action which will increase the amount payable by the City under this Contract.
- B. On all lump sum contracts, the City will pay the Contractor:
 - 1) Its direct cost as hereinafter defined or the fair and reasonable value, whichever is less, for:
 - a) the portion of the work completed up to the time of termination; and
 - b) non-cancelable material and equipment that is not capable of use except in the performance of this Contract and has been specifically fabricated for the sole purpose of this Contract but not incorporated in the work; and
 - 2) Five (5) percent of the direct cost as hereinafter defined; and
 - 3) In addition to the foregoing, the Contractor shall be paid five (5) percent of the difference between the Lump Sum Contract price and the total of all payments made prior to the notice of termination plus all payments allowed pursuant to Paragraph B Subsections 1 and 2 of this Article.
- C. On all unit price Contracts, the City will pay the Contractor:
 - 1) For all completed units, the unit price stated in the Contract; and
 - 2) For uncompleted units, payment will be made pursuant to the provisions of Paragraph B Subsections 1 and 2 of this Article.
- D. Direct costs as used in this Article shall mean:
 - 1) The actual purchase price of material and equipment plus necessary and reasonable delivery costs; and
 - 2) Actual cost of labor involved in construction and installation at the site; and
 - 3) Actual cost of necessary bonds and insurance purchased pursuant to the requirements of this Contract less any amounts that have been or should be refunded by the Contractor's sureties or insurance carriers.
 - 4) Direct costs shall not include overhead.
- E. In no event shall any payments under this Article exceed the Contract price for such items.
 - 1) All payments pursuant to this Article shall be in the nature of liquidated damages and shall be accepted by the Contractor in full satisfaction of all claims against the City arising out of the termination.
 - 2) The City may deduct or set off against any sums due and payable pursuant to this Article, any claims it may have against the Contractor.
- F. All payments pursuant to this Article are subject to audit.

ARTICLE 40. EXERCISE OF THE RIGHT TO DECLARE DEFAULT

The right to declare in default for any of the grounds specified or referred to in Article 38 hereof shall be exercised by sending the Contractor a notice setting forth the ground or grounds upon which such default is declared.

ARTICLE 41. QUITTING THE SITE

Under receipt of such notice in Article 40, the Contractor shall immediately discontinue all further operations under this Contract and shall immediately quit the site, leaving untouched all plant, materials, equipment, tools and supplies then on the site. The site must be made safe and secure from all hazards.

ARTICLE 42. COMPLETION OF THE WORK

- A. The City, after declaring the Contractor in default, may then have the work completed by such means and in such manner, by Contract with or without public letting, or otherwise, as he may deem advisable, utilizing for such purpose such of the Contractor's plant, materials, equipment, tools and supplies remaining on the site, and also such Subcontractors, as he may deem advisable.
- B. After such completion, the City shall make a certificate stating the expense incurred in such completion, which shall include the cost of re-letting and also the total amount of liquidated damages (at the rate provided for in the Schedule "A" to this General Agreement) from the date when the work should have been completed by the Contractor in accordance with the terms hereof to the date of actual completion of the work. Such certificate shall be binding and conclusive upon the Contractor, his Sureties, and any person claiming under the Contract, as to the amount thereof.
- C. The expense of such completion shall be charged against and deducted out of such moneys as would have been payable to the Contractor if he had completed the work; the balance of such moneys, if any, subject to the other provisions of this Contract, to be paid to the Contractor without interest after such completion. Should the expense of such completion exceed the total sum which would have been payable under this Contract if the same had been completed by the Contractor, any such excess shall be paid by the Contractor to the City upon demand.

ARTICLE 43. PARTIAL DEFAULT

- A. In case the City shall declare the Contractor in default as to a part of the work only, the Contractor shall discontinue such part, shall continue performing the remainder of the work in strict conformity with the terms of the Contract and shall in no way hinder or interfere with any other contractors or persons whom the City may engage to complete the work as to which the Contractor was declared in default.
- B. The provision of this Contract relating to declaring the Contractor in default as to the entire work shall be equally applicable to a declaration of partial default, except that the City shall be entitled to utilize for completion of the part of the work as to which the Contractor was declared in default only such plant, materials, equipment, tools and supplies as had been previously used by the Contractor on such part.

ARTICLE 44. PERFORMANCE OF UNCOMPLETED WORK

In completing the whole or any part of the work the City shall have the power to depart from or change or vary the terms and provisions of this Contract, provided, however, that such departure, change or variation is made for the purpose of reducing the time or expense of such completion. Such departure, change or variation, even to the extent of accepting a lesser or different performance shall not affect the conclusiveness of the City's certificate of the cost of completion referred to in Article 42 hereof, nor shall it constitute a defense to an action to recover the amount by which such certificate exceeds the amount which would have been payable to the Contractor hereunder but for his default

ARTICLE 45. CITY'S RIGHT TO AUDIT AND INSPECTION OF RECORDS

- A. The Contractor shall maintain and keep and shall require any subcontractor to maintain and keep, for a period of at least six (6) years after the date of final acceptance, all records and other data relating to the work.
- B. Contractor's records shall be subject to audit and such records shall include but not be limited to accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rates and dividends; and any other Contractor records which may have a bearing on matters of interest to the City in connection with the Contractor's work for the City all of the foregoing hereinafter referred to as "records" shall be open to inspection and subject to audit and/or reproduction by the City or its authorized representative to the extent necessary to adequately permit evaluation and verification of:

- 1) Contractor compliance with Contract requirements;
- 2) compliance with the City's business ethics policies set forth herein; and
- 3) compliance with provisions for pricing change orders, invoices or claims submitted by the Contractor or any of his payees.

Other specific records subject to audit include all information, materials and data of every kind and character such as documents, subscriptions, recordings, computerized information, agreements, purchase order, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information that may in the City's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Contract. In those situations where Contractor's records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), Contractor agrees to provide the City's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange formats.

- C. The City or its designee shall be entitled to audit all of the Contractor's records for a period of six years after final payment or longer if required by law.
- D. Contractor shall require all payees (including those entering into lump sum subcontracts and lump sum major material purchase orders), to comply with the provisions of this Article by insertion of the requirements hereof in a written contract agreement between Contractor and payee. Requirements to include flow-down audit provisions in contracts with payees will apply to subcontractors, sub-subcontractors, material suppliers, etc. When working under any type of contract including lump sum agreement, unit price agreements, time and material agreements, cost plus agreements, etc., Contractor will cooperate fully and will cause all payees to cooperate fully in furnishing or in making available to the City from time to time whenever requested in an expeditious manner any and all such information, materials and data required by this Article of the Contract.
- E. The City through its authorized representative(s) shall have access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article.
- F. If an audit inspection or examination in accordance with this article, discloses overpricing or overcharges (of any nature) by the Contractor to the City in excess of one-half of one percent (.5%) of the total Contract billings, in addition to repayment or credit for the overcharges, the reasonable actual cost of the City's audit shall be reimbursed to the City by the Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Contractor.

ARTICLE 46. BUSINESS ETHICS

- A. During the course of pursuing contracts with the City and while performing contract work in accordance with this agreement, Contractor agrees to maintain business ethics standards which are aimed at avoiding any real or apparent impropriety or conflict of interest which could be construed to have an adverse impact on the dealings with the City.
- B. Contractor shall permit interviews of employees, reviews and audits of accounting or other records by the City representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Contractor's employees, agents, representatives, vendors, Subcontractors and other third parties paid by Contractor in their relations with the City's current or former employees or employee relatives.
- C. Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with the City's best interests. These obligations shall apply to the activities of Contractor employees, agents, subcontractors, etc. in their dealings and relations with the City's current and former employees and their relatives. For example, Contractor employees, agents or subcontractors shall not make or provide to be made any gifts, entertainment, payments, loans, or other considerations to the City's representatives, employees or their relatives.
- D. Contractor agrees to notify the City within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this Article.

ARTICLE 47. INVESTIGATIONS

- A. The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by the City or by an inspector general or other investigatory authority of a Federal, State of New York or governmental agency or

conducted by a Federal, State or governmental Agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath.

- 1) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, State, or any political subdivision or public authority of New York or other public corporation thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State; or,
 - 2) If any person refuses to testify for a reason other than the assertion of his or her privilege against self incrimination in any investigation, audit or inquiry by any agency empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the City of by an inspector general or other investigatory authority of a State or City governmental agency that is a part of interest in, and is seeking testimony concerning the award of or performance under, any transaction, agreement, lease, permit, Contract, or license entered into with the City, the State or other political subdivision or public authority or other public corporation thereof or any local development corporation within the City, or any public benefit corporation organized under the laws of the States, then:
 - (a) The City may convene a hearing, upon not less than five (5) days Notice to the parties involved, to determine if any penalties should attach for the failure of a person to testify.
 - (b) If any non-governmental party to such a hearing requests an adjournment, the Contractor agrees for itself and for those acting on its behalf that the City may, upon granting the adjournment, suspend any contract, lease, permit or license pending the final determination pursuant to paragraph E below without the City incurring any penalty or damages.
- B. The Contractor agrees for itself and for those acting on its behalf that the penalties which may be imposed by the City after such a hearing and a final determination by the City may include but shall not exceed:
- 1) The disqualification for a period not to exceed five (5) years from the date of such a determination of any person, or any entity of which such a person was a member at the time the testimony was sought, from obtaining any contract lease, permit or license with or from the City; and/or
 - 2) The cancellation or termination of any and all existing contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted thereunder, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City's incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.
- C. The City shall consider and address in reaching its determination and in assessing an appropriate penalty the factors in paragraphs (1) and (2) below. The City may also consider, if relevant and appropriate, the criteria established in paragraphs (3) and (4) below in addition to any other information which may be relevant and appropriate:
- (1) The parties' good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought;
 - (2) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity;
 - (3) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses; and
 - (4) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in any entity subject to penalties under paragraph D above, provided that the party or entity has given actual notice to the City upon the acquisition of the interest, or at the hearing called for in paragraph C (1) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.
- D. Definitions
- 1) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.
 - 2) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

- 3) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases or permit from or through the City or otherwise transacts business with the City.
 - 4) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, owner, other principal or employee.
- E. The City in its sole discretion may terminate this Contract upon not less than three (3) days' notice in the event the Contractor fails to promptly report in writing to the City's Police Commissioner or the City's Inspector General any solicitation for money, goods, future employment or other benefit or thing of value by or on behalf of any employee of the City or any other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Contract by the Contractor, or affecting the performance of this Contract.

ARTICLE 48. CONTRACTOR'S WARRANTIES

In consideration of, and to induce the award of this Contract to it, the Contractor represents and warrants:

- A. That it is financially solvent, and sufficiently experienced and competent to perform the work; and
- B. That the facts stated in its bid and the information provided by it in the Information for Bidders is true and correct in all respects; and
- C. That its principals have read and complied with all the requirements set forth in the Information for Bidders; and
- D. That neither it nor any directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the services herein provided; and
- E. That in the performance of this Contract, it shall employ no person having such interest or possible interest. No elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or part, from the City treasury, shall participate in any decision relating to this Contract which affects his or her personal interest or the interest of any corporation, partnership or association in which he is directly or indirectly interested nor shall any such person have any interest, direct or indirect, in this Contract or in the proceeds thereof; and
- F. That the Contractor is familiar with all Federal, State, or other laws, ordinances, orders, rules and regulations, which may in any way affect the work; and
- G. That the Contractor has carefully examined the Contract and the site of the work and that, from the Contractor's own investigations is satisfied as to the nature and location of the work, the character quality and quantity of surface and subsurface materials likely to be encountered, the character or equipment and other facilities needed for the performance of the work, the general and local conditions, and all other materials or items which may affect the work; and
- H. That the Contractor is an independent contractor and not an employee of the City. Unless the Contract specifically provides otherwise, the conduct and control of the work shall be entirely the Contractor's responsibility at all times.

ARTICLE 49. CONTRACTOR PERFORMANCE EVALUATION AND CRITERIA

- A. The Engineer will evaluate a Contractor's performance for compliance with contract requirements. A Contractor will be evaluated by the Engineer at least once during performance of the contract ("interim evaluation"). In addition, a Contractor will receive a final evaluation near the completion of the project. A Contractor's overall performance will be rated by the Engineer as either outstanding, very good, satisfactory, marginal or unsatisfactory.
- B. A Contractor's performance will be evaluated by the Engineer pursuant to the following criteria:
 - (1) Quality of work
 - (2) Management
 - (3) Scheduling
 - (4) Adherence to safety, industrial and hygiene requirements
- C. A marginal or unsatisfactory evaluation in any of the elements of the criteria set forth in paragraph B of this section may serve as a basis for a Contractor to receive an overall rating of marginal or unsatisfactory.
- D. A Contractor that receives an overall evaluation of either marginal or unsatisfactory will be given an opportunity to cure any deficiencies or irregularities in its performance.
- E. If a Contractor receives an overall interim evaluation of marginal, the Contractor may be suspended from bidding or subcontracting on future City projects for a period of thirty (30) to sixty (60) days. If a Contractor's interim evaluation

is unsatisfactory, the Contractor may be suspended from bidding or subcontracting on future City projects for a period of (30) to ninety (90) days.

- F. If the City determines that a Contractor has failed to provide a cure for the deficiencies or irregularities that resulted in either a marginal or an unsatisfactory interim evaluation, or if the Contractor on a subsequent interim evaluation is rated less than satisfactory, the Contractor will be disqualified from bidding or subcontracting for the remaining term of the contract.
- G. A Contractor that receives an overall marginal, final evaluation will be disqualified from bidding or subcontracting on future City projects for one (1) year. A Contractor that receives an unsatisfactory rating will be disqualified from bidding, contracting or subcontracting on City projects for a period of up to five (5) years.
- H. If a Contractor is disqualified pursuant to a marginal or unsatisfactory evaluation, the Contractor may appeal the evaluation to the Board of Contract and Supply or its designated representative.

ARTICLE 50. CLAIMS AND ACTIONS THEREON

- A. No claims against the City for damages for breach of Contract in compensation for extra work shall be made or asserted in any action or proceeding at law or in equity, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims as have been herein provided.
- B. Nor shall any such action or proceeding be instituted or maintained on any such claims unless such action or proceeding be commenced within one (1) year after the date of the filing in the Office of the City Comptroller of the final payment voucher pursuant to Article 30; except that an action or proceeding on a claim for moneys deducted, retained or withheld under the provisions of this Contract or of law, must be commenced within one (1) year after the date of final payment hereunder or after such moneys become due and payable hereunder, whichever is later, and further except that an action or proceeding on a claim based upon the City's exercise of the right to declare the Contractor in default must be commenced within six (6) months after the date the City declared the Contractor in default.
- C. In the event any claim is made or any action brought in any way relating to the Contract herein, the Contractor shall diligently render to the City without additional compensation any and all assistance which the City may require of the Contractor.

ARTICLE 51. NO CLAIM AGAINST OFFICIALS, OFFICERS, AGENTS OR EMPLOYEES

No claim whatsoever shall be made by the Contractor against any official, officer, agent, or employee of the City for, or on account of, anything done or omitted to be done in connection with this Contract.

ARTICLE 52. INVENTIONS, PATENTS AND COPYRIGHTS

- A. The Contractor shall be solely responsible for and shall indemnify the City against any claims and judgments for damages for any infringement of patents, or use of patented articles, tools, materials, equipment, appliances or processes in the performance or completion of the work, including all costs and expenses which the City shall or may incur or be obliged to pay by reason thereof.
- B. Any discovery or invention arising out of or developed in the course of performance of this Contract shall be promptly and fully reported to the Federal Government for determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.
- C. No report, document or other data produced in whole or in part with Contract funds shall be copyrighted by the Contractor nor shall any notice of copyright be registered by the Contractor in connection with any report, document or other data developed for the Contract.
- D. If any copyrightable material is developed under, or in the course of performing this Contract, any Federal Agency providing federal financial participation for the Contract shall have a royalty fee, non exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, the work for governmental purposes.
- E. In no event shall Subsections B, C, and D of this Article be deemed to apply to any report, document or other data, or any invention of the Contractor which existed prior to, or was developed or discovered independently from, its activities related to or funded by this Contract.

ARTICLE 53. SERVICE OF NOTICE

- A. The Contractor hereby designates the business address specified in his bid as the place where all notices, directions or other communications to the Contractor may be delivered, or to which they may be mailed. Actual delivery of any such notice, direction or communication to the aforesaid place, or depositing it in a postpaid wrapper addressed thereto in any post office box regularly maintained by the United States Postal Service, shall be conclusively deemed sufficient service thereof upon the Contractor as of the date of such delivery or deposit.
- B. Such address may be changed at any time by an instrument in writing executed and acknowledged by the Contractor and delivered to the City.
- C. Nothing herein contained shall, however, be deemed to preclude or render inoperative the service of any notice, direction or other communication upon the Contractor personally, or, if the Contractor be a corporation, upon any office or director thereof, or any other methods as provided by law.

ARTICLE 54. UNLAWFUL PROVISIONS DEEMED STRICKEN FROM CONTRACT SEVERABILITY

If this Contract contains any unlawful provision not an essential part of the Contract and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Contract without affecting the binding force of the remainder.

ARTICLE 55. ALL LEGAL PROVISIONS DEEMED INCLUDED

It is the intent and understanding of the parties to this Contract that each and every provision of law required to be inserted in this Contract shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is to be deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Contract shall forthwith upon the application of either party be amended by such insertion as to comply strictly with the law and without prejudice to the rights of either party hereunder.

ARTICLE 56. ANTITRUST ASSIGNMENT

The Contractor hereby assigns, sells and transfers to the City of Yonkers all right, title and interest in and to any claims and causes of action arising under the antitrust laws of New York State or of the United States relating to the particular goods or services purchases or procured by the City under this Contract.

ARTICLE 57. FORUM PROVISION CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

- A. This Contract shall be deemed executed in the City of Yonkers, State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the laws of the State of New York.
- B. The parties agree that any and all claims asserted by or against the City arising under this Contract or related thereto shall be heard and determined either in the courts of the United States, located in White Plains, New York ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in the County of Westchester. To effect this agreement and intent, the Contractor agrees:
 - 1) If the City initiates any action against the Contractor in Federal Court or in New York State Court, service of process may be made on the Contractor either in person, wherever such Contractor may be found, or by registered mail addressed to the Contractor at its address as set forth in this Contract, or to such other address as the Contractor may provide to the City in writing; and
 - 2) With respect to any action between the City and the Contractor in New York State Court, the Contractor hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens; (ii) to remove to Federal Court; and (iii) to move for a change of venue to a New York State Court outside Westchester County.
 - 3) With respect to any action between the City and the Contractor in Federal Court located in White Plains, New York, the Contractor expressly waives and relinquishes any right it might otherwise have to move or transfer the action to a United States Court outside White Plains, New York.
 - 4) If the Contractor commences any action against the City in court located other than in the Westchester County, New York, upon request of the City, the Contractor shall either consent to a transfer of the action to a court of competent jurisdiction located in Westchester County, New York or, if the court where the action is initially brought will not or cannot transfer the action, the Contractor shall consent to dismiss such action without prejudice and may thereafter re-institute the action in a court of competent jurisdiction in Westchester County, New York.

- C. If any provision(s) of this Article is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.

ARTICLE 58. TAX EXEMPTION

- A. The City is exempt from payment of state, local taxes, and sales and compensating use taxes of the State of New York and of cities and counties on all materials and supplies incorporated into completed Work. These taxes are not to be included in bids. This exception does not apply to tools, machinery, equipment or other property leased by or to the Contractor or to supplies and materials which, even though they are consumed, are not incorporated into the completed work, and the Contractor and subcontractors shall be responsible for and pay any and all applicable taxes, including sales and compensating use taxes, on said leased tools, machinery equipment or other property and upon all said unincorporated supplies and materials.
- B. The Contractor shall obtain any and all necessary certificates or other documentation from the appropriate governmental agency or agencies, and use said certificates or other documentation as required by law, rule or regulation.

ARTICLE 59. MERGER CLAUSE

This written agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

ARTICLE 60. MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with **ARTICLE VI OF THE CODE OF THE CITY OF YONKERS** the bidder, by submission of this bid, certifies that if it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder: has business operations in Northern Ireland, such bidder, shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

ARTICLE 61. IRAN DIVESTMENT ACT COMPLIANCE


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"). By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, the Contractor shall complete Schedule "E", an executed certificate of compliance with the Iran Divestment Act signed by the bidder or one of its officers as required by the General Municipal Law Sec. 103g.

ARTICLE 62. SURVIVAL

The provisions in Articles 10, 13, 19, 20, 45, and 48 shall survive expiration, termination or other cancellation of this Agreement.

IN WITNESS WHEREOF: The Mayor, or his authorized designee, on behalf of the City of Yonkers and the Contractor, have executed this agreement in duplicate for the purposes herein mentioned.

The City of Yonkers

By: 
Deputy Mayor, or Designee

PALADINO CONCRETE CREATIONS CORP.

Name of Contractor

By: 
(Authorized Officer of the Firm or Corporation)

Where the Contractor is a Corporation, add:

Attest:

 (Seal)
(Secretary of the Corporation)



APPROVED AS TO FORM


YONKERS CORPORATION COUNSEL

TO BE COMPLETED BY CITY OF YONKERS BUREAU OF PURCHASING

DATE OF B.O.C.S. APPROVAL:	April 14, 2022
INITIATING DEPARTMENT:	Engineering
PURCHASING CONTACT- BUYER:	alex.schenck@YonkersNY.gov

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE (RENEWED)



SCAN TO VALIDATE
AND SUBSCRIBE

***** 200637234
LEVITT-FUIRST ASSOCIATES LTD
520 WHITE PLAINS ROAD, 2ND FL
TARRYTOWN NY 10591

POLICYHOLDER PALADINO CONCRETE CREATIONS CORP 315 NORTH MACQUESTEN PARKWAY MOUNT VERNON NY 10550		CERTIFICATE HOLDER CITY OF YONKERS DEPARTMENT OF PURCHASING 1 LARKIN CENTER YONKERS NY 10701	
POLICY NUMBER G1336 105-0	CERTIFICATE NUMBER 662268	POLICY PERIOD 06/29/2021 TO 06/29/2022	DATE 6/25/2021

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1336 105-0, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT [HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP](https://www.nysif.com/cert/certval.asp). THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS POLICY DOES NOT COVER CLAIMS OR SUITS THAT ARISE FROM BODILY INJURY SUFFERED BY THE OFFICERS OF THE INSURED CORPORATION.

PRESIDENT
GABRIELA PALADINO
PALADINO CONCRETE CREATIONS CORP.
1 OF 1

THIS CERTIFICATE DOES NOT APPLY TO THOSE JOB SITES WHICH ARE COVERED BY OTHER INSURANCE AND ARE SPECIFICALLY EXCLUDED BY ENDORSEMENT.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR, INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 749115838



**CERTIFICATE OF INSURANCE COVERAGE
NYS DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW**

PART 1. To be completed by NYS disability and Paid Family Leave benefits carrier or licensed insurance agent of that carrier

<p>1a. Legal Name & Address of Insured (use street address only) PALADINO CONCRETE CREATIONS, CORP. 315 NORTH MACQUESTEN PARKWAY MOUNT VERNON, NY 10550 Work Location of Insured (Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)</p>	<p>1b. Business Telephone Number of Insured 914-699-0907 1c. Federal Employer Identification Number of Insured or Social Security Number 200637234</p>
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<p>2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) City of Yonkers 1 Larkin Center Yonkers, NY 10701 Re: 2022 Public Right of Way Improvements Bid No. IFB-6751 Contract No. 2022-00000777</p>	<p>3a. Name of Insurance Carrier ShelterPoint Life Insurance Company 3b. Policy Number of Entity Listed in Box "1a" DBL202137 3c. Policy effective period 07/21/2021 to 07/20/2023</p>
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4. Policy provides the following benefits:

- A. Both disability and paid family leave benefits.
- B. Disability benefits only.
- C. Paid family leave benefits only.

5. Policy covers:

- A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 4/18/2022 By 
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be emailed to PAU@wcb.ny.gov or it can be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4B, 4C or 5B have been checked)

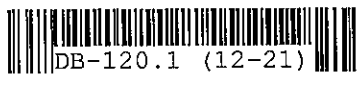
**State of New York
Workers' Compensation Board**

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law (Article 9 of the Workers' Compensation Law) with respect to all of their employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1. Insurance brokers are NOT authorized to issue this form.



Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in Box 3 on this form is certifying that it is insuring the business referenced in Box 1a for disability and/or Paid Family Leave benefits under the NYS Disability and Paid Family Leave Benefits Law. The insurance carrier or its licensed agent will send this Certificate of Insurance Coverage (Certificate) to the entity listed as the certificate holder in Box 2.

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in Box 3c, whichever is earlier.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This Certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This Certificate may be used as evidence of a NYS disability and/or Paid Family Leave benefits contract of insurance only while the underlying policy is in effect.

Please Note: Upon the cancellation of the disability and/or Paid Family Leave benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Insurance Coverage for NYS disability and/or Paid Family Leave Benefits or other authorized proof that the business is complying with the mandatory coverage requirements of the NYS Disability and Paid Family Leave Benefits Law.

NYS DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand and twenty-one, the payment of family leave benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand eighteen, the payment of family leave benefits for all employees has been secured as provided by this article.

PERFORMANCE BOND

City of Yonkers
Bureau of Purchasing

Yonkers City Hall
Yonkers, New York 10701

BID NO.: IFB-6751

KNOW ALL MEN BY THESE PRESENTS;

That Paladino Concrete Creations Corp., 315 North Macquesten Parkway, Mount Vernon, NY 10550
(Here insert the name and address or legal title of the contractor)

as Principal, (hereinafter called "Principal"), and _____

Western Surety Company, 151 N. Franklin Street, Chicago, IL 60606
(Here insert the legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the City of Yonkers, City Hall, Yonkers, New York 10701, as obligee, (hereinafter called the "City"), in the amount of

Two Hundred Fifty Thousand and 00/100 Dollars

(\$ 250,000.00***), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, PRINCIPAL has entered into a contract with the City for the construction of 2022 Public Right of Way Improvements located at _____ in accordance with drawings and specifications which are made a part hereof and which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal, his/her or its representatives or assigns, shall well and faithfully perform the said contract and all modifications, amendments, additions and alterations thereto that may hereafter be made, according to its terms and its true intent and meaning, and shall fully defend, indemnify, and save harmless the City from all cost and damage which it may suffer by reason of failure so to do, and shall fully reimburse and repay the City for all outlay and expense which the City may incur in making good any such default, then this obligation shall be void, otherwise the same to remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees, if requested to do so by the City, to fully perform and complete the work to be performed under the contract, pursuant to the terms, conditions, and covenants thereof, if for any cause, the Principal fails or neglects to successfully perform and complete such work. The Surety further agrees to commence such work of completion within twenty (20) days after written notice thereof from the City and to complete such work within such time as the City may fix.

The Surety, for value received, for itself and its successors and assigns hereby stipulates and agrees that the obligation of said Surety and its bond shall in no way be impaired or affected by any extension of time, modification, omission, addition, or change in or to the said contract or the work to be performed thereunder or by any payment thereunder before the time required therein, or by any waiver of any provisions, thereof, or by any assignment, subletting or other transfer thereof or of any work to be performed or by any moneys due or to become due thereunder; and said Surety does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontract and transfers, and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees subcontractors, and other transferee's shall have the same effect as to said Surety as though done or omitted to be done by or in relation to said Principal.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which Final Payment is made under the Contract.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City named herein or the heirs, executors, administrators or successors of the City.

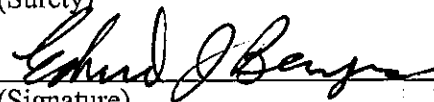
Signed as of this 18th day of April 2022
IN THE PRESENCE OF:

Paladino Concrete Creations Corp.
(Principal)

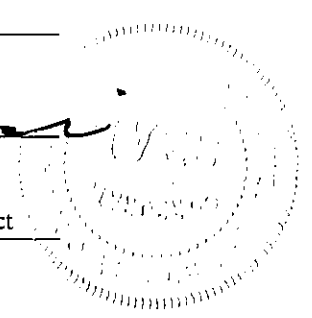
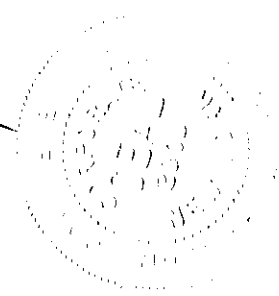

(Signature)

Gabriela Paladino
(Title) President

Western Surety Company
(Surety)


(Signature)

Edmund J. Bergassi, Attorney-in-Fact
(Title)




(PERFORMANCE BOND – Bid # **IFB-6751**)

ACKNOWLEDGEMENT OF CONTRACTOR, IF A CORPORATION

STATE OF New York)
CITY OF Mt. Vernon) ss:

On the 18th day of April in the year 2022, before me personally came Gabriela Paladino to me known (or proved to me on the basis of satisfactory evidence), who, being by me duly sworn, did depose and say that he/she resides at Eastchester, NY, that he/she is the President of Paladino Concrete Creations Corp., the corporation described in and which executed the above instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

LINDA J. BAUTISTA
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01BA4888044
Qualified in Putnam County
Commission Expires April 06, 2023


Notary Public

(PERFORMANCE BOND – Bid # IFB-6751)

ACKNOWLEDGEMENT OF CONTRACTOR, IF A PARTNERSHIP

STATE OF _____)

CITY OF _____) ss:

On the ___ day of _____ in the year 20___, before me personally came _____, to me known and known (or proved to me on the basis of satisfactory evidence), to me to be a member of firm _____; described in and who executed the foregoing instrument; and he/she duly acknowledged to me that he/she executed the foregoing instrument; and that he/she duly acknowledged to me that he/she executed the same for and in behalf of said firm for the uses and purpose mentioned therein.

Notary Public

ACKNOWLEDGEMENT OF CONTRACTOR, IF AN INDIVIDUAL

STATE OF _____)

CITY OF _____) ss:

On the _____ day of _____ in the year 20___, before me personally came _____, to me known (or proved to me on the basis of satisfactory evidence) and known to me to be the person described in and who executed the foregoing instrument and he/she duly acknowledged that he/she executed the same.

Notary Public

(PERFORMANCE BOND – Bid # **IFB-6751**)

ATTORNEY IN FACT ACKNOWLEDGEMENT

STATE OF _____)

CITY OF _____) ss:

On this _____ day of _____ 20____, before me personally came _____ the attorney in fact of _____ the Company named in the foregoing contract, to me known to be the individual described in and who, as such attorney, executed the foregoing contract, and acknowledged that he/she executed the same as the Act and deed of the said party or parties; therein described as Consultant, and for the purpose therein mentioned, by virtue of a power of attorney duly executed and acknowledged by the said party or parties, bearing date the _____ day of _____ 20 ____; that said powers of attorney is still in full force.

Notary Public

ACKNOWLEDGEMENT OF SURETY

STATE OF New York)

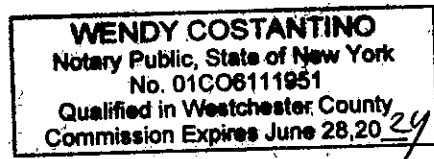
CITY New Rochelle) ss:

On this 18th day of April in the year 2022, before me personally came Edmund J. Bergassi to me known, who, being by me duly sworn, did depose and say that he/she resides at Eastchester, NY, that he/she is the Attorney-in-Fact of Western Surety Company, the corporation described in and which executed the above instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

Wendy Costantino

NOTARY PUBLIC OR COMMISSIONER OF DEEDS

(PERFORMANCE BOND – Bid # IFB-6751)



WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2020

ASSETS

Bonds	\$	1,912,532,179
Stocks		25,319,501
Cash, cash equivalents, and short-term investments		40,409,249
Receivables for securities		-
Investment income due and accrued		17,596,947
Premiums and considerations		66,346,899
Amounts recoverable from reinsurers		3,171,900
Current federal and foreign income tax recoverable and interest thereon		2,464,571
Net deferred tax asset		14,052,177
Receivable from parent, subsidiaries, and affiliates		12,599,707
Other assets		-
Total Assets	\$	<u>2,094,493,130</u>

LIABILITIES AND SURPLUS

Losses	\$	215,792,050
Loss adjustment expense		51,323,326
Commissions payable, contingent commissions and other similar charges		10,245,562
Other expenses (excluding taxes, license and fees)		-
Taxes, License and fees (excluding federal and foreign income taxes)		3,169,742
Federal and foreign income taxes payable		-
Unearned premiums		256,859,522
Advance premiums		5,954,577
Ceded reinsurance premiums payable (net of ceding commissions)		977,849
Amounts withheld or retained by company for account of other		9,740,338
Provision for reinsurance		420,825
Payable to parent, subsidiaries and affiliates		2,297
Payable on security transactions		-
Other liabilities		<u>31,467</u>
Total Liabilities	\$	554,517,555

Surplus Account:

Common stock	\$	4,000,000	
Gross paid in and contributed surplus		280,071,837	
Unassigned funds		<u>1,255,903,739</u>	
Surplus as regards policyholders	\$	1,539,975,575	
Total Liabilities and Capital	\$	<u>2,094,493,130</u>	

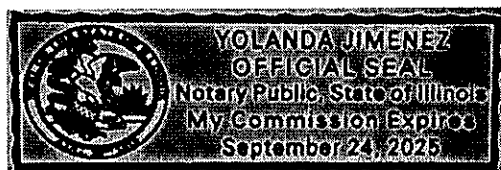
I, Julie Lee, Assistant Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2020, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.



WESTERN SURETY COMPANY

By Julie Lee
Assistant Vice President, External Reporting

Subscribed and sworn to me this 9 day of April 2021
My commission expires:



By Yolanda Jimenez
Notary Public

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Edmund J Bergassi, Individually

of New Rochelle, NY, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

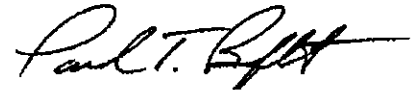
- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 17th day of August, 2020.


WESTERN SURETY COMPANY



Paul T. Bruflat, Vice President

State of South Dakota		ss
County of Minnehaha		

On this 17th day of August, 2020, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires		
June 23, 2021		

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 18th day of April, 2022.

WESTERN SURETY COMPANY



L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

LABOR AND MATERIAL PAYMENT BOND

City of Yonkers
Bureau of Purchasing

Yonkers City Hall
Yonkers, New York 10701

BID NO.: IFB-6751

KNOW ALL MEN BY THESE PRESENTS;

That Paladino Concrete Creations Corp., 315 North Macquesten Parkway, Mount Vernon, NY 10550
(Here insert the name and address of legal title of the Contractor)
as Principal, (hereinafter called "Principal"). and _____

Western Surety Company, 151 N. Franklin Street, Chicago, IL 60606
(Here insert the legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the City of Yonkers, Yonkers City Hall, Yonkers, Yew York 10701, as Obligee,(hereinafter called the City), in the amount of

Two Hundred Fifty Thousand and 00/100 Dollars

(\$ 250,000.00***)

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assign, jointly and severally, firmly by these presents.

WHEREAS, PRINCIPAL has by written agreement dated _____ entered into a contract with the City for the construction of 2022 Public Right of Way Improvements

Located at Yonkers, NY in accordance with drawings and specifications which are made a part hereof and which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligations shall be void; otherwise such obligation shall remain in full force and effect, subject, however to the following conditions:

1. A claimant is defined as one having a direct Contract with the Principal or with a Subcontractor of the Principal for labor material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above named Principal and Surety hereby jointly and severally agree with the City that every claimant as herein defined, ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due

claimant, and have execution thereon. The City shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

- (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two (2) of the following: 1) the Principal, 2) the City, 3) the Surety named above, within one hundred-twenty (120) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be serviced by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, the City or Surety, at any place where an office is regularly maintained by said Principal, the City or Surety for the transaction of business, or serviced in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer.
- (b) After the expiration of two (2) years following the date on which Principal ceased work of said Contract, however, if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to the equal to the minimum period of limitation permitted by such law.
- (c) Other than in State court competent jurisdiction in and for the country or other political subdivision of the State in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanic's liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed as of this 18th day of April 2022

IN THE PRESENCE OF; Paladino Concrete Creations Corp.
(Principal)

[Signature]
(Signature)

Gabriela Paladino
(Title) President

Western Surety Company
(Surety)

[Signature]
(Signature)

Edmund J. Bergassi, Attorney-in-Fact
(Title)

(LABOR & MATERIAL PAYMENT BOND – Bid # IFB-6751)

ACKNOWLEDGEMENT OF CONTRACTOR, IF A CORPORATION

STATE OF New York)

CITY OF Mt. Vernon) ss:

On the 18th day of April in the year 20___, before me personally came Gabriela Paladino to me known (or proved to me on the basis of satisfactory evidence), who, being by me duly sworn, did depose and say that he/she resides at Eastchester, NY, that he/she is the President of Paladino Concrete Creations Corp., the corporation described in and which executed the above instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

LINDA J. BAUTISTA
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01BA4888044
Qualified in Putnam County
Commission Expires April 06, 2023


Notary Public

(LABOR AND MATERIAL PAYMENT BOND – Bid # IFB-6751)

ACKNOWLEDGEMENT OF CONTRACTOR, IF A PARTNERSHIP

STATE OF _____)

CITY OF _____) ss:

On the ____ day of _____ in the year 20____, before me personally came _____, to me known and known (or proved to me on the basis of satisfactory evidence), to me to be a member of firm _____; described in and who executed the foregoing instrument; and he/she duly acknowledged to me that he/she executed the foregoing instrument; and that he/she duly acknowledged to me that he/she executed the same for and in behalf of said firm for the uses and purpose mentioned therein.

Notary Public

ACKNOWLEDGEMENT OF CONTRACTOR, IF AN INDIVIDUAL

STATE OF _____)

CITY OF _____) ss:

On the _____ day of _____ in the year 20____, before me personally came _____, to me known (or proved to me on the basis of satisfactory evidence) and known to me to be the person described in and who executed the foregoing instrument and he/she duly acknowledged that he/she executed the same.

Notary Public

(LABOR AND MATERIAL PAYMENT BOND – Bid # **IFB-6751**)

ATTORNEY IN FACT ACKNOWLEDGEMENT

STATE OF _____)

CITY OF _____) ss:

On this _____ day of _____, 20____, before me personally came _____ the attorney in fact of _____ the Company named in the foregoing contract, to me known to be the individual described in and who, as such attorney, executed the foregoing contract, and acknowledged that he/she executed the same as the Act and deed of the said party or parties; therein described as Consultant, and for the purpose therein mentioned, by virtue of a power of attorney duly executed and acknowledged by the said party or parties, bearing date the _____ day of _____, 20____; that said powers of attorney is still in full force.

Notary Public

ACKNOWLEDGEMENT OF SURETY

STATE OF New York)

CITY New Rochelle) ss:

On this 18th day of April in the year 2022, before me personally came Edmund J. Bergassi to me known, who, being by me duly sworn, did depose and say that he/she resides at Eastchester, NY, that he/she is the Attorney-in-Fact of Western Surety Company, the corporation described in and which executed the above instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

Wendy Costantino
NOTARY PUBLIC OR COMMISSIONER
OF DEEDS

(LABOR AND MATERIAL PAYMENT BOND – Bid # IFB-6751)

WENDY COSTANTINO
Notary Public, State of New York
No. 01CO6111951
Qualified in Westchester County
Commission Expires June 28, 2024

WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2020

<u>ASSETS</u>	
Bonds	\$ 1,912,532,179
Stocks	25,319,501
Cash, cash equivalents, and short-term investments	40,409,249
Receivables for securities	-
Investment income due and accrued	17,596,947
Premiums and considerations	66,346,899
Amounts recoverable from reinsurers	3,171,900
Current federal and foreign income tax recoverable and interest thereon	2,464,571
Net deferred tax asset	14,052,177
Receivable from parent, subsidiaries, and affiliates	12,599,707
Other assets	-
Total Assets	\$ 2,094,493,130

<u>LIABILITIES AND SURPLUS</u>	
Losses	\$ 215,792,050
Loss adjustment expense	51,323,326
Commissions payable, contingent commissions and other similar charges	10,245,562
Other expenses (excluding taxes, license and fees)	-
Taxes, License and fees (excluding federal and foreign income taxes)	3,169,742
Federal and foreign income taxes payable	-
Unearned premiums	256,859,522
Advance premiums	5,954,577
Ceded reinsurance premiums payable (net of ceding commissions)	977,849
Amounts withheld or retained by company for account of other	9,740,338
Provision for reinsurance	420,825
Payable to parent, subsidiaries and affiliates	2,297
Payable on security transactions	-
Other liabilities	31,467
Total Liabilities	\$ 554,517,555

Surplus Account:	
Common stock	\$ 4,000,000
Gross paid in and contributed surplus	280,071,837
Unassigned funds	1,255,903,739
Surplus as regards policyholders	\$ 1,539,975,575
Total Liabilities and Capital	\$ 2,094,493,130

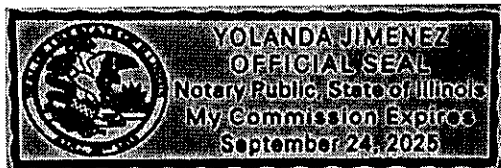
I, Julie Lee, Assistant Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2020, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.



WESTERN SURETY COMPANY

By Julie Lee
Assistant Vice President, External Reporting

Subscribed and sworn to before me this 9 day of April 2021
My commission expires:



By Yolanda Jimenez
Notary Public

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Edmund J Bergassi, Individually

of New Rochelle, NY, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

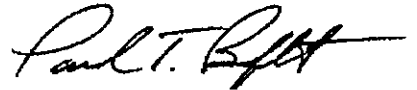
- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 17th day of August, 2020.


WESTERN SURETY COMPANY



Paul T. Bruflat, Vice President

State of South Dakota		ss
County of Minnehaha		

On this 17th day of August, 2020, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires		
June 23, 2021		

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 18th day of April, 2022.

WESTERN SURETY COMPANY



L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

SCHEDULE "A" to the GENERAL AGREEMENT

Bid No.: IFB-6751

Contract No. 2022-00000777

Description: 2022 PUBLIC RIGHT-OF-WAY IMPROVEMENTS

<u>Reference</u>	<u>Item</u>	<u>Requirement</u>
Information for Bidders Section VIII	Bid Security	<u>\$12,500.00</u>
Information for Bidders Section: VIII	Performance/ Payment Security	<u>\$250,000.00</u>
Agreement Article 6	Time of Completion	Total Consecutive Calendar Days <u>368</u>
Agreement Article 6	Liquidated Damages	For Each Consecutive Calendar Day Over Completion Time <u>\$ 0</u>
Agreement Article 17	Subcontracts	Not to Exceed 49% of the Contract
Agreement Article 19	Insurance	See below
Agreement Article 20	Maintenance Deposit	(a) 1% of Contract Amount (b) Other _____

Where indicated by an (x), Insurance in the amounts specified below are required under this Contract.

(x)	Worker's Compensation	Statutory
(x)	Employer's Liability	\$1,000,000 each Accident

(x) Commercial General Liability – Combined Single Limit-Bodily Injury and Property Damage:

- \$1,000,000 per occurrence
- \$1,000,000 Products/Completed Operations Aggregate
- \$2,000,000 General Aggregate
- \$25,000 Maximum Deductible

(x) Automobile Liability – Combined Single Limit – Bodily Injury and Property Damage:

- \$1,000,000 per person each occurrence for Bodily Injury
- \$100,000 per occurrence Property Damage

The following coverage must be provided:

(x) Comprehensive (x) Owned (x) Hired (x) Non-Owned

In addition, if indicated by an (x), the following hazards must be covered:

Excess Insurance _____

Other _____

(x) Additional Named Insured:

City of Yonkers; City of Yonkers School District; Yonkers Board of Education

ATTACHMENT "A" - Itemized Bid Schedule of Prices			
IFB-6751: 2022 PUBLIC RIGHT-OF-WAY IMPROVEMENTS			
ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #1 Pipe and Fittings			
1.1	L.F., 4" XH CIP House Connection Drain (Sanitary or Storm) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	30	00
1.2	L.F., 6" XH CIP House Connection Drain (Sanitary or Storm) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	45	00
1.3	L.F., 4" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	40	00
1.4	L.F., 6" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	37	00
1.5	L.F., 8" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	52	00
1.6	L.F., 12" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	80	00
1.7	L.F., 16" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	120	00
1.8	L.F., 18" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	135	00
1.9	L.F., 24" DIP Class 54 (Sanitary / Storm / Water Main) furnished and installed (Excavation, sheeting, crushed stone, backfill, restoration, etc. to be paid for under respective bid items).	195	00
1.10	Each, 6" X 6" DIP Class 54 Wye, furnished and installed to include three (3) - 6" mechanical joint kits.	700	00
1.11	Each, 8" X 6" DIP Class 54 Wye, furnished and installed to include two (2) - 8" mechanical joint kits and one (1) - 6" mechanical joint kit.	800	00
1.12	Each, 12" X 6" DIP Class 54 Wye, furnished and installed to include two (2) - 12" mechanical joint kits and one (1) - 6" mechanical joint kit.	1,800	00
1.13	Each, 16" X 6" DIP Class 54 Wye, furnished and installed to include two (2) - 16" mechanical joint kits and one (1) - 6" mechanical joint kit.	2,200	00
1.14	Each, 18" X 6" DIP Class 54 Wye, furnished and installed to include two (2) - 18" mechanical joint kits and one (1) - 6" mechanical joint kit.	4,000	00
1.15	Each, 24" X 6" DIP Class 54 Wye, furnished and installed to include two (2) - 24" mechanical joint kits and one (1) - 6" mechanical joint kit.	13,000	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
1.16	Each, 4" Model US Sealtite Type "U" Multi-Range Tee Sewer Saddle, or approved equal, furnished and installed including core drilling of sewer main and full encasement with hand mix concrete.	400	00
1.17	Each, 6" Model US Sealtite Type "U" Multi-Range Tee Sewer Saddle, or approved equal, furnished and installed including core drilling of sewer main and full encasement with hand mix concrete.	600	00
1.18	Lbs., XH CIP Fittings (4" and 6"), furnish and install to include all necessary gaskets and mechanical joint kits. For use on laterals and to construct clean outs to grade. (Weight of fitting to be determined from fitting Manufacturers specifications).	6	00
1.19	Lbs., Class 54 DIP Fittings (6" and 8"), furnished and installed, including all necessary mechanical joint kits. For fittings not specifically described in other items. (Elbows, Reducers, Etc.)	5	00
1.20	Lbs., Class 54 DIP Fittings (12", 16", 18", and 24"), furnished and installed, including all necessary mechanical joint kits. For fittings not specifically described in other items. (Elbows, Reducers, Etc.)	6	00
1.21	Each, 4" Shielded No-Hub Coupling, furnished and installed to include full encasement in hand mixed concrete.	25	00
1.22	Each, 6" Shielded No-Hub Coupling, furnished and installed to include full encasement in hand mixed concrete.	60	00
1.23	Each, 6" FERNCO Type Coupling, furnished and installed to include full encasement in hand mixed concrete.	52	00
1.24	Each, 8" FERNCO Type Coupling, furnished and installed to include full encasement in hand mixed concrete.	75	00
1.25	Each, 12" FERNCO Type Coupling, furnished and installed to include full encasement in hand mixed concrete.	135	00
1.26	Each, 16" FERNCO Type Coupling, furnished and installed to include full encasement in hand mixed concrete.	300	00
1.27	Each, 18" FERNCO Type Coupling, furnished and installed to include full encasement in hand mixed concrete.	625	00
1.28	Each, 24" FERNCO Type Coupling, furnished and installed to include full encasement in hand mixed concrete.	900	00
1.29	L.F., 8" HDPE Solid Pipe.	6	00
1.30	L.F., 12" HDPE Solid Pipe.	9	00
1.31	L.F., 15" HDPE Solid Pipe.	14	00
1.32	L.F., 18" HDPE Solid Pipe.	18	00
1.33	L.F., 24" HDPE Solid Pipe.	30	00
1.34	L.F., 6" HDPE Perforated Pipe.	4	50
1.35	L.F., 8" HDPE Perforated Pipe.	6	00
1.36	L.F., 4" SDR 35 Solid Pipe.	3	00
1.37	L.F., 6" SDR 35 Solid Pipe.	7	00
1.38	L.F., 4" Schedule 40 Solid Pipe.	4	00
1.39	L.F., 6" Schedule 40 Solid Pipe.	7	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
1.40	L.F., 4" PVC Pipe.	2	00
1.41	Each, 4" and 6" SDR 35 Fittings.	8	00
1.42	Each, 4" and 6" Schedule 40 Fittings.	8	00
1.43	Each, 4" PVC Fittings.	6	00
1.44	Each, Filing Permits with the City of Yonkers Plumbing Department and Installation/Repair of private house service lateral to be completed by a licensed plumber, (materials to be paid for under respective contract bid items listed), as directed by the Engineer. (NOTE: A plumbing permit must be filed for any work on a private service).	300	00
Sub-total		\$26,855	50
Contractor's Markup for Pipe and Fitting Items (%)		80%	
Grand Total for Pipe and Fitting Items (Sub-total X %)		48,339.90	
NOTE: ALL PUMPING TO MAINTAIN FLOW IN ORDER TO INSTALL THE ITEMS IN THIS SECTION IS TO BE DEEMED INCLUDED UNDER THE UNIT BID ITEM PRICES			

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #2 Water Main & Water Service Items			
2.1	Each, 4" Resilient Wedge Gate Valve (open clockwise), including mechanical joint accessories	540	00
2.2	Each, 6" Resilient Wedge Gate Valve (open clockwise), including mechanical joint accessories	720	00
2.3	Each, 8" Resilient Wedge Gate Valve (open clockwise), including mechanical joint accessories	1,080	00
2.4	Each, 12" Resilient Wedge Gate Valve (open clockwise), including mechanical joint accessories	1,910	00
2.5	Each, 16" Resilient Wedge Gate Valve (open clockwise), including mechanical joint accessories	7,965	00
2.6	Each, 18" Resilient Wedge Gate Valve (open clockwise), including mechanical joint accessories	10,710	00
2.7	L.F., 3/4" Type K Copper Tubing	3	50
2.8	L.F., 1" Type K Copper Tubing	4	50
2.9	L.F., 1-1/2" Type K Copper Tubing	7	00
2.10	L.F., 2" Type K Copper Tubing	11	00
2.11	Each, 3/4" Corporation Stop Valve (flared fitting), to include wet tap into water main	60	00
2.12	Each, 1" Corporation Stop Valve (flared fitting), to include wet tap into water main	75	00
2.13	Each, 1-1/2" Corporation Stop Valve (flared fitting), to include wet tap into water main	175	00
2.14	Each, 2" Corporation Stop Valve (flared fitting), to include wet tap into water main	285	00
2.15	Each, 3/4" Curb Valve (flared X flared)	88	00
2.16	Each, 1" Curb Valve (flared X flared)	130	00
2.17	Each, 1-1/2" Curb Valve (flared X flared)	300	00
2.18	Each, 2" Curb Valve (flared X flared)	440	00
2.19	Each, Water Service Valve Box for Services 3/4" - 1-1/2"	75	00
2.20	Each, Water Service Valve Box for Services 2" and greater and water main valves (to include pre-cast concrete bottom section and manhole frame and cover)	1,000	00
2.21	Each, Fire Hydrant (4' bury depth)	3,225	00
2.22	Each, Fire Hydrant (5' bury depth)	3,650	00
2.23	Each, Fire Hydrant (6' bury depth)	3,900	00
Sub-total:		\$36,354	00
Contractor's Markup for Water Main and Water Service Items (%):		2%	
Grand Total for Water Main and Water Service Items (Sub-total X %):		37,081	08

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #3 Pre-Cast Concrete Structures			
3.1	Each, Type - 1 Standard Catch Basin with Curb Piece complete furnished and installed.	4,500	00
3.2	Each, Type - 2 Standard Catch Basin without Curb Piece complete furnished and installed.	4,250	00
3.3	Each, Type - 3 Standard Catch Basin with Curb Piece complete furnished and installed.	6,500	00
3.4	Each, Furnish and Install Type A-1 Manhole for Storm Sewer under 5' depth, to include frame and cover.	3,500	00
3.5	Each, Furnish and Install Type A-1 Manhole for Storm Sewer, 5.1' to 10' depth, to include frame and cover.	5,250	00
3.6	Each, Furnish and Install Type A-1 Manhole for Storm Sewer, 10.1' to 15' depth, to include frame and cover.	7,000	00
3.7	Each, Furnish and Install Type A-1 Manhole for Storm Sewer, 15.1' to 20' depth, to include frame and cover.	8,750	00
3.8	Each, Furnish and Install Type A-1 Manhole for Sanitary Sewer under 5' depth, to include frame and cover.	4,000	00
3.9	Each, Furnish and install type A-1 Manhole for Sanitary Sewer 5.1' to 10' depth, to include frame and cover.	5,750	00
3.10	Each, Furnish and install type A-1 Manhole for Sanitary Sewer 10.1' to 15' depth, to include frame and cover.	7,500	00
3.11	Each, Furnish and install type A-1 Manhole for Sanitary Sewer 15.1' to 20' depth, to include frame and cover.	9,250	00
3.12	Each, Furnish and Install 18"x18"x18" Precast Concrete Knockout Basin, PCS-2814 frame and grate, excavation and disposal, backfill with clean crushed stone, 6" of clean crushed stone base, basin and frame and grate as manufactured by Precast Concrete Sales Co, Valley Cottage, NY or approved equal.	2,000	00
Sub-total		\$68,250	00
Contractor's Markup for Pre-Cast Concrete Structures Items (%)		35%	
Grand Total for Pre-Cast Concrete Structures Items (Sub-total X %)		92,137.50	

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #4 Manhole and Catch Basin Castings			
4.1	Each, Existing Catch Basin Frame and Grate adjusted by removing and resetting to grade, including initial saw-cutting, excavation of whatever material encountered, and 1-4 courses of RED brick and mortar complete. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	700	00
4.2	Each, Existing Manhole Frame and Cover adjusted by removing and resetting to grade, including initial saw-cutting, excavation of whatever material encountered, and 1-4 courses of RED brick and mortar, complete. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	600	00
4.3	Each, Existing Manhole Frame and Cover removed and then replaced on existing structure to allow for sewer lining operation. NOTE: This is a 2 day operation. <u>Day 1 (Pre-Lining):</u> Sawcut 7' x 7' maximum. Remove and dispose asphalt. Excavate and dispose material around manhole, up to 36" below grade. Remove and store manhole frame and cover. Remove and dispose brick and masonry up to 36" below grade. Cover excavation with HS-20 steel plates (To be recessed in winter months). <u>Day 2 (Post-Lining):</u> Remove steel plates. Re-install manhole frame and cover, to include up to 30" of RED brick and mortar to be parged both inside and outside. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	8,000	00
4.4	Each, New Type - 1 Catch Basin Frame and Grate with curb piece, furnished and installed, to replace existing catch basin frame and grate on existing catch basin, including initial saw-cutting, excavation of whatever material encountered up to 36" below grade, removal and disposal of existing catch basin frame, grate, brick and masonry, and setting of new catch basin frame and grate on up to 30" of RED brick and mortar to be parged both inside and outside. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	1,700	00
4.5	Each, New Type - 2 Catch Basin Frame and Grate without curb piece, furnished and installed, to replace existing catch basin frame and grate on existing catch basin, including initial saw-cutting, excavation of whatever material encountered up to 36" below grade, removal and disposal of existing catch basin frame, grate, brick and masonry, and setting of new catch basin frame and grate on up to 30" of RED brick and mortar to be parged both inside and outside. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	1,600	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
4.6	Each, New Manhole Frame and Cover, furnished and installed, to replace existing manhole frame and cover on existing manhole, including initial saw-cutting, excavation of whatever material encountered up to 36" below grade, removal and disposal of existing manhole frame, cover, brick and masonry, and setting of new manhole frame and cover on up to 30" of RED brick and mortar to be parged both inside and outside. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	1,300	00
4.7	Each, Furnish and Install 3028 Self Level 1890A2GS Manhole Assembly as manufactured by EJ or approved equal.	1,500	00
Sub-total		\$15,400	00
Contractor's Markup for Manhole and Catch Basin Castings Items (%)		40%	
Grand Total for Manhole and Catch Basin Castings Items (Sub-total X %)		21,560	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #5 Masonry			
5.1	Sq. Ft., Existing Bluestone Sidewalk Flags to be removed and reset to grade, including 6" depth stone dust base.	5	00
5.2	Lin. Ft., Existing Stone Curb to be removed and replaced, including initial saw-cutting, excavation of whatever material encountered, and 4,500 PSI concrete foundation. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	100	00
5.3	Lin. Ft., New Bluestone Curb, furnished and installed, including radius curb, initial saw-cutting, excavation of whatever materials encountered, and 4,500 PSI concrete foundation. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	200	00
5.4	Cu. Ft., Additional Brick Masonry.	75	00
5.5	Cu. Ft., Furnish and Install New Wall Stone, including all necessary excavation and disposal, temporary shoring, mortar joints, and setting of coping stone.	60	00
5.6	Cu. Ft., Repair/Rebuild Wall with existing stone and cut and repoint joints with Type-M mortar, to include removal and disposal of all materials removed.	40	00
Sub-total		\$480	00
Contractor's Markup for Masonry Items(%)		60%	
Grand Total for Masonry Items (Sub-total X %)		768	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #6 Excavation			
6.1	Cu. Yds., Excavation and Disposal of whatever materials encountered except ledge rock and boulders (0' -5' total depth), where and as directed, to include initial saw-cutting and removal and disposal of asphalt/concrete roadway.	50	00
6.2	Cu. Yds., Excavation and Disposal of whatever materials encountered except ledge rock and boulders (5.1' -10' total depth), where and as directed, to include initial saw-cutting and removal and disposal of asphalt/concrete roadway.	60	00
6.3	Cu. Yds., Excavation and Disposal of whatever materials encountered except ledge rock and boulders (10.1' -15' total depth), where and as directed, to include initial saw-cutting and removal and disposal of asphalt/concrete roadway.	70	00
6.4	Cu. Yds., Excavation and Disposal of whatever materials encountered except ledge rock and boulders (15.1' -20' total depth), where and as directed, to include initial saw-cutting and removal and disposal of asphalt/concrete roadway.	75	00
Sub-total		\$255	00
Contractor's Markup for Excavation Items (%)		100%	
Grand Total for Excavation Items (Sub-total X %)		510.00	
NOTE: ALL PUMPING FOR DEWATERING OF THE EXCAVATION (IF NEEDED) SHALL BE DEEMED INCLUDED IN THE UNIT BID ITEMS IN THIS SECTION			

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #7 Miscellaneous Excavation			
7.1	Cu. Yds., Test Pit Excavation (Max. depth of 10' from finished grade), where and as directed, to include backfilling with native excavated material (Sawcutting, sheeting, restoration, etc. to be paid for under respective bid items).	100	00
7.2	Cu. Yds., Hand Excavation (utilizing non powered tools) to be supplementary to excavation items as required, directed, and approved in writing by the Engineer. (THIS ITEM SHALL ONLY BE USED WHERE IT IS DETERMINED BY THE ENGINEER THAT MOTORIZED HEAVY MACHINERY CANNOT PHYSICALLY WORK).	100	00
7.3	Cu. Yds., Boulder Excavation and disposal in open trench.	60	00
7.4	Cu. Yds., Rock Removal (Mechanical) and disposal.	225	00
7.5	Total Hours by Crew, Stream Cleaning, to include chainsaws, hand tools, small machinery (Less than 10,000 lbs), and a minimum of 3 laborers. (THIS ITEM SHALL ONLY BE USED WHERE IT IS DETERMINED BY THE ENGINEER THAT MOTORIZED HEAVY MACHINERY CANNOT PHYSICALLY WORK)	500	00
7.6	Cu. Yds., Stream Dredging, to include labor, transportation, machinery, trucking, disposal and tools (Measured as per certified dump tickets).	150	00
7.7	Lin. Ft., Cutting and Disposal of Trolley Tracks, to include removal and disposal of any railroad ties.	100	00
Sub-total		\$1,235	00
Contractor's Markup for Miscellaneous Excavation Items (%)		45%	
Grand Total for Miscellaneous Excavation Items (Sub-total X %)		1,790.75	
NOTE: ALL PUMPING FOR DEWATERING OF THE EXCAVATION (IF NEEDED) SHALL BE DEEMED INCLUDED IN THE UNIT BID ITEMS IN THIS SECTION			

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #8 Excavation Stabilization			
8.1	Sq. Ft., Pre-Engineered Trench Shoring System (0' - 10' depth as measured from finished grade) as per all O.S.H.A. regulations. (To be paid as measured fully installed in excavation. Depth of excavation from finished grade X perimeter of excavation at finished grade).	5	00
8.2	Sq. Ft., Pre-Engineered Trench Shoring System (10.1' - 15' depth as measured from finished grade) as per all O.S.H.A. regulations. (To be paid as measured fully installed in excavation. Depth of excavation from finished grade X perimeter of excavation at finished grade).	7	50
8.3	Sq. Ft., Pre-Engineered Trench Shoring System (15.1' - 20' depth as measured from finished grade) as per all O.S.H.A. regulations. (To be paid as measured fully installed in excavation. Depth of excavation from finished grade X perimeter of excavation at finished grade).	10	00
8.4	Sq. Ft., Timber Sheeting (0' - 10' depth as measured from finished grade) as per all O.S.H.A. regulations, and as designed by a registered N.Y.S. Licensed Professional Engineer. (To be paid as measured fully installed in excavation. Depth of excavation from finished grade X perimeter of excavation at finished grade. Contractor to retain N.Y.S.P.E. on a per location basis to submit a design of the timber sheeting system specific to site conditions).	7	00
8.5	Sq. Ft., Timber Sheeting (10.1' - 15' depth as measured from finished grade) as per all O.S.H.A. regulations and as designed by a registered N.Y.S. Licensed Professional Engineer. (To be paid as measured fully installed in excavation. Depth of excavation from finished grade X Perimeter of excavation at finished grade. Contractor to retain N.Y.S.P.E. on a per location basis to submit a design of the timber sheeting system specific to site conditions).	15	00
8.6	Sq. Ft., Timber Sheeting (15.1' - 20' depth as measured from finished grade) as per all O.S.H.A. regulations and as designed by a registered N.Y.S. Licensed Professional Engineer. (To be paid as measured fully installed in excavation. Depth of excavation from finished grade X Perimeter of excavation at finished grade. Contractor to retain N.Y.S.P.E. on a per location basis to submit a design of the timber sheeting system specific to site conditions).	30	00
8.7	Each, Design and Submission of Timber Sheeting System by a registered N.Y.S.-Licensed Professional Engineer.	3,500	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
8.8	Lin. Ft., Temporary Fencing for all trenches approved to be left uncovered by the Engineer, furnished, installed, maintained, and removed.	5	00
8.9	Lin. Ft., Temporary Free-Standing 6' Height Chain Link Fence, with panels and approved base weights, as directed by Engineer.	20	00
8.10	Sq. Ft., HS-20 Load Rated Steel Plates to cover excavation in roadway or as directed by the Engineer, to include recessing to road grade in winter months, pins, and cold patch asphalt ramps in non winter months, furnish, install, maintenance during all phases of work, and removal. (Note: This item is to be paid once per plate per location actually covering an excavation and in use)	5	00
Sub-total		\$3,604	50
Contractor's Markup for Excavation Stabilization Items (%)		75%	
Grand Total for Excavation Stabilization Items (Sub-total X %)		6,307	88

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #9 Granular Material			
9.1	Cu. Yds., N.Y. State Item 304.02, select granular material, to be used as CLEAN BACKFILL, furnished, delivered and compacted, as specified as directed, measured loose in trucks. (NO MILLINGS, GLASS, ORGANIC MATERIAL OR BLAST FURNACE SLAG PERMITTED).	50	00
9.2	Cu. Yds., Clean 3/4" Crushed Stone (washed) furnished, delivered, and placed, for use as pipe bedding and as needed.	60	00
9.3	Tons, "Rip-Rap" Surge Stone (4" to 10" small size), furnished, delivered, placed by hand, and graded.	60	00
9.4	Tons, "Rip-Rap" Surge Stone (10.1" to 18" medium size), furnished, delivered, placed by hand, and graded.	105	00
9.5	Each, Galvanized Wire Mesh Gabion (6' x 3' x 3'), furnished, delivered, and assembled in place. Rip-Rap, excavation, crushed stone, and filter fabric to be paid for under respective bid items.	150	00
9.6	Sq. Yd., Filter Fabric (8.0 oz Non-Woven Geotextile) to meet or exceed specifications in Section 42 of COY Engineering Dept. List of Technical Construction Specifications	3	00
Sub-total		\$428	00
Contractor's Markup for Granular Material Items (%)		75%	
Grand Total for Granular Material Items (Sub-total X %)		749.00	

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #10 Landscaping			
10.1	Cu. Yds., Topsoil, furnished, delivered, and graded.	50	00
10.2	Sq. Yds., Grass Seeding by hand, including fertilizer and hay/straw layer.	4	00
10.3	Sq. Yds., Hydro Seeding, to include mulch, tackifier, fertilizer, grass seed (Contractor Blend), and preparation of topsoil. (Note: Minimum area per location is 1000 Sq. Yds).	3	00
10.4	Sq. Yds., Tensar ERONET SC 150 Turf Reinforcement Mat, or approved equal, to include grading at an average of 1' depth and staples.	6	00
10.5	Each, Tree, 6.1" to 8" in caliper, to be cut down, removed, and disposed of off-site.	400	00
10.6	Each, Tree, 8.1" to 15" in caliper, to be cut down, removed, and disposed of off-site.	800	00
10.7	Each, Tree, 15.1" to 24" in caliper, to be cut down, removed, and disposed of off-site.	2,000	00
10.8	Each, Tree, 24.1" to 36" in caliper, to be cut down, removed, and disposed of off-site.	2,500	00
10.9	Sq. Yds., Clearing and Grubbing of vegetation, stumps and trees up to 6" in caliper, as ordered by the Engineer, to include disposal.	20	00
10.10	Each, Existing Tree Stump, 4' or less in height, 6.1" to 8" in caliper, to be removed and disposed of off-site.	100	00
10.11	Each, Existing Tree Stump, 4' or less in height, 8.1" to 15" in caliper, to be removed and disposed of off-site.	200	00
10.12	Each, Existing Tree Stump, 4' or less in height, 15.1" to 24" in caliper, to be removed and disposed of off-site.	300	00
10.13	Each, Existing Tree Stump, 4' or less in height, 24.1" to 36" in caliper, to be removed and disposed of off-site.	400	00
10.14	Cu. Yds., Fallen Trees, 6.1" or more in caliper, to be cut, removed, and disposed of off-site.	20	00
Sub-total		\$6,803	00
Contractor's Markup for Landscaping Items (%)		30%	
Grand Total for Landscaping Items (Sub-total X %)		8,843	90

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #11 Poured-in-Place Concrete / Sidewalk & Curb			
11.1	Cu. Yds., Controlled Density Backfill (50 PSI "K-Crete"), furnished, delivered, and placed.	125	00
11.2	Cu. Yds., Additional Concrete (4,500 PSI), furnished, delivered, and placed, including necessary formwork.	300	00
11.3	Pounds, Reinforcing Steel, furnished, delivered, and installed.	5	00
11.4	Cu.Yds, Reinforced Concrete Steps, to include all forms, all steel reinforcing, nosing/tread insert, new handrails on both sides of new steps, 3/4" crushed stone, saw cutting, and demolition and removal of existing steps. (Note: To be paid per Cubic Yard of concrete in place).	3,500	00
11.5	Sq. Ft., Existing Concrete Sidewalk to be removed and replaced with one course 5" thick 4,500 PSI concrete, including excavation of whatever materials encountered, saw-cutting, 6" depth crushed stone base, expansion joint material, and approved finish.	12	00
11.6	Sq. Ft., Existing Driveway Apron to be removed and replaced with one course 8" thick 4,500 PSI concrete, including excavation of whatever materials encountered, saw-cutting, 6" depth crushed stone base, expansion joints material, welded wire reinforcement, and approved finish.	17	00
11.7	Lin. Ft., New Concrete Curb (4,500 PSI Concrete), furnished and installed, including initial saw-cutting, 6" depth crushed stone base, expansion joint material, forms, excavation of whatever materials encountered, and approved finish. Final sawcut, backfill, and asphalt restoration to be paid under respective bid items.	50	00
11.8	Sq. Ft., Remove and Replace Existing Pedestrian Ramp including all necessary saw-cutting, truncated dome surface, welded wire reinforcement (8" Thick - 4,500 PSI Concrete).	30	00
11.9	Cu.Yds., 4,500 PSI Concrete for Wall Footing, to include all necessary excavation and disposal, temporary shoring, and form work.	800	00
11.10	Cu. Yds., Winter Concrete Additional Cost to include winter additives and cold weather curing protection, determined by weather, as per approval by COY Engineer prior to ordering. Contractor to provide proof of additive on concrete ticket.	20	00
11.11	Each, Sign Post, removed and reset	150	00
Sub-total		\$5,009	00
Contractor's Markup for Poured-in-Place Concrete / Sidewalk & Curb Items (%)		35%	
Grand Total for Poured-in-Place Concrete / Sidewalk & Curb Items (Sub-total X %)		6,762.15	

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #12 Asphalt			
12.1	Tons, Asphaltic Concrete Binder for final base pavement, furnished, delivered, placed, and compacted.	200	00
12.2	Tons, Asphaltic Concrete Top (2" Depth) for final wearing surface, furnished, delivered, placed and compacted.	215	00
12.3	Tons, SUPERPAVE Base for final base pavement, furnished, delivered, placed, and compacted, including tack coat.	325	00
12.4	Tons, SUPERPAVE Binder for final base pavement, furnished, delivered, placed, and compacted, including tack coat.	325	00
12.5	Tons, SUPERPAVE Top for final wearing surface, furnished, delivered, placed, and compacted, including tack coat.	325	00
12.6	Cu.Ft., Mechanical Asphalt Pavement Removal, where and as directed by Engineer.	8	00
12.7	Lin. Ft., Saw-cutting for Final Asphalt Restoration, to include removal and disposal of asphalt, up to 18" from edge of initial excavation.	4	00
12.8	Lin. Ft., Asphalt Concrete Curb, 4" height x 6" base width, furnished, delivered, placed, and compacted where directed.	30	00
12.9	Lin. Ft., Asphalt Concrete Swale, 30" width max., furnished, laid, and compacted, including excavation and disposal of whatever materials encountered up to 18" from finished grade/top of swale, and 6" depth of approved sub-base material and 4" of top asphalt.	100	00
12.10	Tons, Winter Asphalt additional cost to include winter additives and increased travel distance, determined by weather, as per approval by COY Engineering prior to ordering. No payment to be made for this item without written approval from COY Engineering.	15	00
Sub-total		\$1,547	00
Contractor's Markup for Asphalt Items (%)		35%	
Grand Total for Asphalt Items (Sub-total X %)		2,088.45	

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #13 Maintenance of Site and Traffic			
NOTE: Site Maintenance and Basic Maintenance and Protection of Traffic as prescribed by the most current			
13.1	Hours, Certified Dedicated Traffic Flaggers, as directed by the Engineer.	75	00
13.2	Sq. Ft. Temporary Traffic Control Signs. Signs to meet all applicable M.U.T.C.D. regulations, to include installation, wind-master stands, maintenance during the work, and removal. Item to be paid for additional signs above and beyond basic traffic control and will be paid once per sign face area per location.	20	00
13.3	Hour, City of Yonkers Police Officer to assist with Traffic Maintenance, as agreed in writing by the Engineer	120	00
13.4	Hour, City of Yonkers Police Officer Supervisor to assist with Traffic Maintenance, as agreed in writing by the Engineer	160	00
13.5	Per Day, Furnish, Deliver, Maintain, and Remove PCMS-1210/PCMS-1210QS Trailer mounted Variable Message Board as manufactured by Ver-Mac or approved equal. (This item will be paid per 24 hour period).	160	00
Sub-total		\$535	00
Contractor's Markup for Maintenance of Site and Traffic Items (%)		30%	
Grand Total for Maintenance of Site and Traffic Items (Sub-total X %)		695	50

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #14 Guide Rail & Fencing			
14.1	Lin. Ft., Guide Rail, removed and reset as directed, including new hardware if necessary	45	00
14.2	Lin. Ft., Guide Rail, removed and disposed of as directed, including posts.	30	00
14.3	Lin. Ft., HPBO (Modified) Corrugated Beam Guide Rail, furnished, delivered, and installed, including posts with attached steel soil plates and excavation / post driving.	100	00
14.4	Each, I-Beam Posts with Steel Soil Plates, for HPBO (Modified) Corrugated Beam Guide Rail	220	00
14.5	Lin. Ft., 4' Height Black Vinyl-Coated Chain Link Fence, furnished, delivered, and installed, including excavation, footings, posts, and all necessary hardware	60	00
14.6	Lin. Ft., 6' Height Black Vinyl-Coated Chain Link Fence, furnished, delivered, and installed, including excavation, footings, posts, and all necessary hardware	80	00
14.7	Each, Furnish and Install 6" Diameter SCH40 Steel Pipe Bollard as per detail.	1,000	00
	Sub-total	\$1,535	00
	Contractor's Markup for Guide Rail & Fencing Items (%)	25%	
	Grand Total for Guide Rail & Fencing Items (Sub-total X %)	1,918	75

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #15 Traffic Signals			
15.1	L.F., Conduit Excavation and Backfill Including Surface Restoration (N.Y.S. Pay Item # 206.03).	80	00
15.2	Cu. Yds., Pole Excavation and Concrete Foundation (N.Y.S. Pay Item # 680.5001).	1,760	00
15.3	Each, Concrete Base for Controller Cabinet (N.Y.S. Pay Item # 680.50002).	1,600	00
15.4	Each, Alter Elevations of Pull Boxes (N.Y.S. Pay Item # 680.51000010).	1,000	00
15.5	Each, Pull Box - Rectangular 26"x18" Reinforced Concrete (N.Y.S. Pay Item # 680.510501).	1,175	00
15.6	Each, Clean Existing Pull Box (N.Y.S. Pay Item # 680.5110).	400	00
15.7	L.F., Conduit, Metal, Steel, Zinc Coated, 1" Diameter (N.Y.S. Pay Item # 680.520103).	14	00
15.8	L.F., Conduit, Metal, Steel, Zinc Coated, 2" Diameter (N.Y.S. Pay Item # 680.520106).	18	00
15.9	L.F., Conduit, Metal, Steel, Zinc Coated, 3" Diameter (N.Y.S. Pay Item # 680.520108).	25	00
15.10	L.F., Conduit, Metal, Steel, Zinc Coated, 4" Diameter (N.Y.S. Pay Item # 680.520110).	45	00
15.11	L.F., Conduit, Flexible, Liquid Tight Steel, 1" Diameter (N.Y.S. Pay Item # 680.520203).	14	00
15.12	L.F., Clean Existing Conduit (N.Y.S. Pay Item # 680.5301).	11	00
15.13	L.F., Inductance Loop Installation (N.Y.S. Pay Item # 680.54).	16	25
15.14	Each, Furnish and Install Traffic Signal Pole - Span Wire, 4000 lbs., 28 Ft (N.Y.S. Pay Item # 680.600428).	6,000	00
15.15	Each, Furnish and Install Traffic Signal Pole - Span Wire, 5000 lbs., 30 Ft (N.Y.S. Pay Item # 680.600530).	7,400	00
15.16	Each, Furnish and Install Traffic Signal Pole - Mast Arm, 20 Ft Mounting Height, 25 Ft Arm Length (N.Y.S. Pay Item # 680.622025).	7,800	00
15.17	Each, Furnish and Install Traffic Signal Pole - Mast Arm, 20 Ft Mounting Height, 30 Ft Arm Length (N.Y.S. Pay Item # 680.622030).	8,000	00
15.18	Each, Furnish and Install Traffic Signal Pole - Mast Arm, 20 Ft Mounting Height, 40 Ft Arm Length (N.Y.S. Pay Item # 680.622040).	8,700	00
15.19	Each, Furnish and Install Traffic Signal Pole - Bracket Mount, 12 Ft (N.Y.S. Pay Item # 680.6812).	1,225	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
15.20	Each, Single Span Wire Assembly (N.Y.S. Pay Item # 680.7001).	1,250	00
15.21	Each, Dual Span Wire Assembly with Upper Tether Wire (N.Y.S. Pay Item # 680.7002).	1,400	00
15.22	L.F., Shielded Lead-in Cable (N.Y.S. Pay Item # 680.71).	2	00
15.23	L.F., Inductance Loop Wire (N.Y.S. Pay Item # 680.72).	1	25
15.24	L.F., Power Cable - 2 Conductors with Ground, 14 AWG, Stranded (N.Y.S. Pay Item # 680.730214).	5	00
15.25	L.F., Signal Cable - 5 Conductors, 14 AWG (N.Y.S. Pay Item # 680.730514).	5	00
15.26	L.F., Signal Cable - 10 Conductors, 14 AWG (N.Y.S. Pay Item # 680.731014).	6	00
15.27	L.F., Signal Cable - 15 Conductors, 14 AWG (N.Y.S. Pay Item # 680.731514).	7	25
15.28	Each, Modify Traffic Signal Equipment (Controller and Cabinet Programming and Modifications) (N.Y.S. Pay Item # 680.77).	2,000	00
15.29	Each, Modify Traffic Signal Equipment (Troubleshoot and repair Video Detection System) (N.Y.S. Pay Item # 680.78).	2,500	00
15.30	Each, Furnish and Install 330 Cabinet (Stretch) with Naztec 2070 Controller (N.Y.S. Pay Item # 680.803245).	15,000	00
15.31	Each, Microcomputer Cabinet Base, Aluminum (N.Y.S. Pay Item # 680.803247).	3,800	00
15.32	Each, Traffic Signal Module - 12" (300mm), RED BALL, LED (N.Y.S. Pay Item # 680.810101).	125	00
15.33	Each, Traffic Signal Module - 12" (300mm), RED ARROW, LED (N.Y.S. Pay Item # 680.810102).	125	00
15.34	Each, Traffic Signal Module - 12" (300mm), YELLOW BALL, LED (N.Y.S. Pay Item # 680.810103).	125	00
15.35	Each, Traffic Signal Module - 12" (300mm), YELLOW ARROW, LED (N.Y.S. Pay Item # 680.810104).	125	00
15.36	Each, Traffic Signal Module - 12" (300mm), GREEN BALL, LED (N.Y.S. Pay Item # 680.810105).	125	00
15.37	Each, Traffic Signal Module - 12" (300mm), GREEN ARROW, LED (N.Y.S. Pay Item # 680.810106).	125	00
15.38	Each, Traffic Signal Section - 12" (300mm), Empty (N.Y.S. Pay Item # 680.810107).	150	00
15.39	Each, Traffic Signal Module - 12" (300mm), Bi-Modal, Yellow/Green Arrows, LED (N.Y.S. Pay Item # 680.810107).	350	00

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
15.40	Each, Traffic Signal Astro Bracket Assembly (Rigid) - 1-Way (N.Y.S. Pay Item # 680.8111).	460	00
15.41	Each, Traffic Signal Bracket Assembly - 1 Way (N.Y.S. Pay Item # 680.8111).	460	00
15.42	Each, Traffic Signal Bracket Assembly - 2 Way (N.Y.S. Pay Item # 680.8112).	700	00
15.43	Each, Traffic Signal Bracket Assembly - 3 Way (N.Y.S. Pay Item # 680.8113).	850	00
15.44	Each, Traffic Signal Bracket Assembly - 4 Way (N.Y.S. Pay Item # 680.8114).	1,200	00
15.45	Each, Pedestrian Signal Module, LED Dual Indicator, 16"x18", Countdown (N.Y.S. Pay Item # 680.813107).	345	00
15.46	Each, Pedestrian Signal Section - Type I, 16"x18" (N.Y.S. Pay Item # 680.813108).	330	00
15.47	Each, Pedestrian Signal Bracket Mount Assembly (N.Y.S. Pay Item # 680.8141).	325	00
15.48	Each, Overhead Sign Assembly - Type 'A' (Span Wire Installations) (N.Y.S. Pay Item # 680.8201).	600	00
15.49	Each, Overhead Sign Assembly - Type 'E' (Mast Arm Installations) (N.Y.S. Pay Item # 680.8205).	725	00
15.50	Each, Pedestrian Pushbutton and Sign Without Post (N.Y.S. Pay Item # 680.8225).	362	50
15.51	Each, Pedestrian Pushbutton and Sign With Post (N.Y.S. Pay Item # 680.8226).	825	00
15.52	Each, Traffic Signal Service Entrance (Overhead) (N.Y.S. Pay Item # 680.94).	1,050	00
15.53	Each, Traffic Signal Service Entrance (Underground) (N.Y.S. Pay Item # 680.94).	1,200	00
15.54	Each, Furnish and Install Electrical Disconnect Generator Transfer Switch (N.Y.S. Pay Item # 680.94997).	1,425	00
15.55	L.F., Traffic Signal Service Cable - 2 Conductors, 6 AWG (N.Y.S. Pay Item # 680.950206).	4	50
15.56	L.F., Category 5E Ethernet Cable, Outdoor Rated (N.Y.S. Pay Item # 683.1001).	4	00
15.57	Each, Furnish and Install Accessible Pedestrian Signal (APS) with Pole. (N.Y.S. Pay Item # 680.81310109).	2,500	00
15.58	Each, Furnish and Install Accessible Pedestrian Signal (APS) without Pole. (N.Y.S. Pay Item # 680.81310209).	1,500	00
Sub-total		\$87,375	75
Contractor's Markup for Traffic Signals Items (%)		5%	
Grand Total for Traffic Signals Items (Sub-total X %)		91,744.54	

ITEM NUMBER	ITEM DESCRIPTION	UNIT BID PRICES	
		DOLLARS	CENTS
Group #16 Allowance			
16.1	Allowance, for Work Not Specified Under Unit Bid Items, as directed in writing by the Engineer, at Fifty-Thousand Dollars and 00/100.	50,000	00
16.2	Allowance, for Performance Bond Cost. Contractor to maintain a \$250,000.00 Performance Bond for the life of the contract. The Contractor will be reimbursed for the actual cost of the bond, however, this cost shall not exceed \$5,000.00.	5,000	00

Grand Total for Group #1 Pipe & Fittings:	\$ 48,339.90
Grand Total for Group #2 Water Main & Water Services:	\$ 37,081.08
Grand Total for Group #3 Pre-Cast Structures:	\$ 92,137.50
Grand Total for Group #4 Manhole and Catch Basin Castings:	\$ 21,560.00
Grand Total for Group #5 Masonry:	\$ 768.00
Grand Total for Group #6 Excavation:	\$ 510.00
Grand Total for Group #7 Miscellaneous Excavation:	\$ 1,790.75
Grand Total for Group #8 Excavation Stabilization:	\$ 6,307.88
Grand Total for Group #9 Granular Material:	\$ 749.00
Grand Total for Group #10 Landscaping:	\$ 8,843.90
Grand Total for Group #11 Poured-in-Place Concrete / Sidewalk & Curb:	\$ 6,762.15
Grand Total for Group #12 Asphalt:	\$ 2,088.45
Grand Total for Group #13 Maintenance of Site and Traffic:	\$ 695.50
Grand Total for Group #14 Guide Rail & Fencing:	\$ 1,918.75
Grand Total for Group #15 Traffic Signals:	\$ 91,744.54
Grand Total for Group #16 Allowance:	\$ 55,000.00
Grand Total for Bid Groups #1 Through #16	\$ 376,297.40

