



CITY OF WATERBURY

Water Main Replacement 9th Avenue – Paving Phase

2020

Bid Specification

**Mayor Charles Patricelli
Councilperson Peter Torncello
Councilperson Barbara Diamond**

**General Manager Joe LaCivita
Deputy General Manager Mark Spain**

TABLE OF CONTENTS

NOTICE TO BIDDERS

SCOPE OF WORK

INSTRUCTIONS TO BIDDERS

PURPOSE

COPIES OF BIDDING DOCUMENTS

SUBMISSION OF BIDS

QUALIFICATIONS OF BIDDER

EXAMINATION OF CONTRACT DOCUMENTS AND SITE

ADDENDA AND INTERPRETATIONS

SUBSTITUTE MATERIAL AND EQUIPMENT

BID EVALUATION

BID FORM

DISQUALIFICATION

MODIFICATION AND WITHDRAWAL OF BIDS

OPENING OF BIDS

BIDS TO REMAIN OPEN

AWARD OF CONTRACT

SALES TAX

LAWS AND REGULATIONS

ASSIGNMENT

NON-COLLUSIVE BIDDING CERTIFICATE

NON-APPROPRIATION CLAUSE

INDEMNIFICATION

PURCHASE ORDER REQUIREMENT

DELIVERY DATES

PAYMENT

IRANIAN ENERGY SECTOR DIVESTMENT

INSURANCE AND SECURITY PROVISIONS

PRE-BID MEETING

BID BOND

PERFORMANCE BOND

PAYMENT BOND

NOTICE TO BIDDERS

CITY OF WATERVLIET

Water Main Replacement 9th Avenue – Paving Phase

Sealed Bids to furnish milling and asphalt paving for the Water Main Replacement 9th Avenue – Paving Phase at 9th Avenue between 19th Street and 15th Street, 15th Street between Avenue A and 9th Avenue and Avenue A between 15th Street and 16th Street as located in the City of Watervliet, Albany County, New York will be received at City of Watervliet, City Clerk's Office, 2 Fifteenth Street, Watervliet, New York 12189 until 10 A.M. (local time) on Thursday, July 30, 2020 and at that time and place will be publicly opened and read aloud.

Bid Specification (Bid Document) for the proposed work will be on file and publicly exhibited as of July 13, 2020 between the hours of 8:00 a.m. and 4:00 p.m. at the Office of the City Clerk in City Hall, 2 Fifteenth Street, Watervliet, New York 12189. The Bid Specification will also be available on the City of Watervliet's website at www.watervliet.com.

A pre-bid meeting will be held on Tuesday, July 21, 2020 at 10:00 AM at Watervliet City Hall, City Clerk's Office, 2 Fifteenth Street, Watervliet, New York 12189.

A deposit of \$50.00, made payable to the City of Watervliet, will be required for each set of paper Bid Specification furnished to prospective Bidders, which sum will be refunded only to those submitting a formal Bid, if said Bid Specifications are returned in good condition within thirty (30) days after the opening of Bids. If additional sets of Bid Specifications have been obtained, one-half the amount of the deposit will be refunded upon the return, in good condition, of each additional set. Refunds will not be made to non-bidders or material supplier.

Each Bid must be accompanied by a certified check in the sum of five percent (5%) of the amount of the Bid, drawn upon a national or state bank or trust company, to the order of the City of Watervliet, or a bond with sufficient sureties in a penal sum equal to five percent (5%) of the Bid, conditioned that if Bidder's Bid is accepted, Bidder will enter into a Contract for the same and that Bidder will execute such further security as may be required for the performance of the Contract. Separate Performance and Payment Bonds, each equal to one hundred percent (100%) of the Contract Price, will be required of the successful Bidder, and the bonds shall be satisfactory to the City of Watervliet Corporation Counsel.

The Bidder to whom the Contract may be awarded shall attend at the said opening place of the said Bids, with the sureties offered by the Bidder, within seven (7) days after the date of the Notice of Award, and there sign the Contract for the Work in duplicate. In case of Bidder's failure to do so, or in case of Bidder's failure to give further security as herein prescribed, the Bidder will be considered as having abandoned the same and the certified check or other bid security accompanying Bidder's proposal shall be forfeited to the City of Watervliet.

The City of Watervliet reserves the right to waive any informality in or to reject any or all Bids submitted.

(Signed) David Wheatley
Deputy City Clerk

Dated: July 13, 2020

SCOPE OF WORK

The following scope of work is to be provided for each of the locations listed on the bid form.

- Mill 1.5” nominal thickness to promote positive drainage, remove and dispose of material
- Clean and prepare roadway for asphalt overlay
- Raise/modify all utility to be level with finalized roadway
- Furnish and install Tack Coat (@.06 gallons per square yard)
- Furnish and install Truing and Leveling course of asphalt as needed
- Furnish and install 1.5” Type 6 asphalt
- Provide all Maintenance and Protection of Traffic for all work

*The City of Watervliet requires that all work use prevailing wage rates.

*All vendors submitting bids agree to conform to all New York State prevailing wage laws.

WORK TO BE COMPLETED NO LATER THAN AUGUST 28, 2020.

INSTRUCTIONS TO BIDDERS

Purpose

The intent of these specifications is to furnish information to responsible bidders for the purpose of obtaining sealed bids for goods and/or services as requested by the City of Watervliet.

Copies of Bidding Documents

Complete sets of the Bidding Documents may be obtained or examined as stated in the Notice to Bidders.

Complete sets of Bidding Documents shall be used in preparing Bids. The City of Watervliet does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

The City of Watervliet, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids and do not confer a license or grant for any other use.

Submission of Bids

Bids shall be submitted at the time and place indicated in the Notice to Bidders and shall be enclosed in an opaque sealed envelope, marked with the bid name and the name and address of the Bidder and accompanied by all other required documents. If the bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof.

Bids must be received no later than the bid closing date and time, at the following address:

City of Watervliet
City Clerk
City Hall
Watervliet, New York 12189
Telephone: 518-270-3800

For Courier Delivery: City of
Watervliet
City Clerk
City Hall
Watervliet, New York 12189.

The City of Watervliet reserves the right to reject any or all bids in whole or in part, to waive any and all informalities, and to disregard all nonconforming, non responsive or conditional bids.

Qualification of Bidder

Each Bid must contain evidence of Bidder's qualification to do business in New York State or covenant to obtain such qualification prior to award of contract.

In addition the City of Watervliet may make such investigations, as it deems necessary to determine the ability of the Bidder to perform the work. The Bidder shall furnish to the City, within five (5) days of request, all such information and data for this purpose as may be requested. The City reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the City that such Bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated

therein. Conditional bids will not be accepted.

Examination of Contract Documents and Site

Before submitting a Bid, each Bidder must (a) examine the bid specifications thoroughly, (b) visit the site, if required, to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work, (c) familiarize himself with federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of the Work; and (d) study and carefully correlate Bidder's observations with the Bid Documents.

Before submitting a Bid, each Bidder will, at his own expense, make such additional investigations and tests as the Bidder may deem necessary to determine his Bid for performance of the Work in accordance with the time, price and other terms and conditions of the Bid Documents.

The submission of a Bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of the bid specifications and that the Bid Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

Addenda and Interpretations
All inquiries with respect to the Bid Specification must be directed to the City of Watervliet General Manager as follows:

City of Watervliet
Joseph LaCivita
General Manager
City Hall
Watervliet, New York
12189
Email:
jlacivita@watervliet.com
Phone: (518) 270-3800 Ext 122

All questions about the meaning or intent of the specifications must be submitted to the aforementioned designated person in writing and to be given consideration, must be

received at least five (5) days prior to the date fixed for the opening of bids. Replies will be issued by Addenda mailed or faxed with return receipt requested to all prospective bidders (at the respective addresses furnished for such purposes), not later than three (3) days prior to the date fixed for the openings of bids. Failure of any bidder to receive any such addenda or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the bid documents.

Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

Substitute Material and Equipment

Manufacturers name brands are listed to indicate minimum requirements and bidding may be on brands listed, (if specified), or **equivalent**. The bidder to support equivalency shall furnish their specifications and fully explain their exceptions to our specifications in a bid letter. The City shall give full consideration to any exceptions if in the best interests of the using department.

In the event of any claim by any unsuccessful bidder concerning or relating to the issue of "or equal", the successful bidder agrees,

that his cost and expense, to defend such claim or claims and agrees to hold the City of Watervliet free and harmless from any and all claims for loss or damage arising out of this transaction for any reasons.

Bid Evaluation

Bids received will be evaluated by the City of Watervliet and will be based, as a minimum, upon the following criteria:

- a) Lowest total bid cost and projected timetable for completion of services and/or delivery of goods as described herein;
- b) Completeness of the bid; and
- c) Bidder's demonstrated capabilities and professional qualifications.

The City reserves the right to award this bid on an aggregate basis; whichever is most beneficial to the City of Watervliet.

The City reserves the right to purchase items pursuant to General Municipal Law 104 for New York State Contracts or New York State Preferred Sources within its discretion.

Bid Form

The Bid Form is attached hereto; additional copies may be obtained from the City.

Bid Forms must be completed in ink or by typewriter. If applicable, the Bid price of each item on the form must be stated in words and numerals; in case of a conflict, words will take precedence.

Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

All names must be typed or printed below the signature.

The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).

The address to which communications regarding the Bid are to be directed must be shown.

Disqualification

The City reserves the right to reject a Bid proposal from a prospective Bidder should such Bidder be in default for any of the following reasons:

- (a) Failure to pay, or satisfactorily settle, all bills due for labor and materials on former bids in force (with the City) at the time the City issues the Proposal to a prospective Bidder.
- (b) Vendor default under previous bids with the City.
- (c) Unsatisfactory work on previous bids with the City.

Bids received from Bidders who have previously failed to complete contracts within the time required, or who have previously performed similar work in an unsatisfactory manner, may be rejected. A bid may be rejected if the Bidder cannot show that he has the necessary ability, plant and equipment to commence the work at the time prescribed and thereafter to prosecute and complete the work at the rate or within the time specified. A bid may be rejected if the Bidder is already obligated for the performance of other work which would delay the commencement, ongoing progress of the work or completion of the work.

The City reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the City that such Bidder is properly qualified to carry out the obligations of the bid and to complete the work contemplated therein.

Bids shall be considered irregular for the following reasons:

- (a) If the bid is on a form other than that furnished by the City, or, if the City's form is altered, or, if any part of the Bid Form is detached.
- (b) If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind, which make the bid incomplete, indefinite, or otherwise ambiguous.
- (c) If the bid is not accompanied by the bid security specified by the City.

Modification and Withdrawal of Bids

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

If, within twenty-four hours after Bids are opened, any Bidder files a duly signed written notice with the City and promptly thereafter demonstrates to the reasonable satisfaction of the City that there was a material and substantial mistake in the preparation of his Bid, that Bidder may withdraw his Bid. Thereafter, that Bidder will be disqualified from further bidding on the Work.

Opening of Bids

Bids shall be opened publicly and read aloud. An abstract of the amounts of the base Bids and major alternates (if any) will be made available after the opening of Bids.

Bids to Remain Open

All Bids may remain open for forty-five (45) days after the day of the Bid opening, but the City may, in its sole discretion, release any Bid prior to that date.

Award of Contract

The City reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive or conditional Bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Bids, the City shall consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and alternates and unit prices if requested in the Bid forms. It is the City's intent to accept alternates (if any are accepted) in the order in which they are listed in the Bid Form but the City may accept them in any order or combination.

The City may consider operating cost, maintenance considerations, performance data and guarantees of materials and equipment.

The City may conduct such investigations as it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidders, proposed Subcontractors and other persons and organizations to do the Work in accordance with the Bid Documents to the City's satisfaction within the prescribed time.

The City reserves the right to reject the Bid of any Bidder who does not pass any such evaluation to the City's satisfaction.

If the contract is to be awarded it will be awarded to the lowest qualified, responsible, formal Bidder. If the contract is to be awarded, the City will give the Successful Bidder a Notice of Award within forty-five days after the day of the Bid opening. When the City gives a Notice of Award to the Successful Bidder, it will be accompanied by duplicate original written contracts. Within seven (7) days thereafter, the Contractor shall sign and deliver the required contract to the City with the required Bonds. Within ten (10) days thereafter, the City shall

deliver one fully executed duplicate original contract to the Contractor.

Sales Taxes

The City of Watervliet is an exempt organization and is therefore exempt from payment of Sales and compensating Use taxes of the State of New York, and of cities, counties, and other subdivisions of the State, on all materials and supplies to be incorporated in the project pursuant to the provisions of this contract.

These taxes apply to:

- (1) materials incorporated in the work, and
- (2) materials and furnishings for the project which are not incorporated therein but are later sold and transferred to the City.

This exemption does not, however, apply to equipment rentals, tools, supplies for equipment and other items purchased or rented by the Vendor for his use in performing the contract and not incorporated into the work.

Laws and Regulations

All applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, they will be deemed to be included in the contract the same as though herein written out in full. The laws of the State of

New York shall govern this bid and any resulting agreement.

Assignment

There shall be no assignment of this bid and any resulting agreement per General Municipal Law 109 without prior written consent of the City.

Non Collusion Bidding Certificate

All Vendors bidding under the provisions of the specification are subject to provisions of Section 103 of the General Municipal Law of the State of New York. A signed non-collusive certification is required to be submitted with each bid in the form specified with the bid documents.

Non Appropriation Clause

Notwithstanding anything contained in this bid to the contrary, the City of Watervliet shall not be deemed in default under the bid in the event no funds or insufficient funds are appropriated and budgeted for or are otherwise unavailable by any means whatsoever in any fiscal period for the implementation of this bid. The City of Watervliet will immediately notify the Bidder of such occurrence and this bid shall terminate on the last day of the fiscal period for which appropriations were received as to the portions of expenditures herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise

available.

Indemnification:

The vendor hereby agrees to defend, indemnify and hold-harmless the City of Watervliet from all suits, claims, and proceedings arising out of activities carried on by the Vendor in connection with the agreement herein, to the extent of the Vendor's responsibility for such claims, damages, and losses, except for those claims, suits or proceedings arising solely out of the negligence of the City of Watervliet.

Purchase Order Requirement

Purchases for the City of Watervliet are authorized only if a signed purchase order issued in advance of the transaction, showing that the ordering department has sufficient funds available to pay for the service. Vendors providing services without a signed purchase order do so at their own risk. The City of Watervliet shall not be liable for payment of any services provided under the bid unless a valid purchase order has been issued to the vendor.

Delivery Dates

For all bids with specified delivery dates included, time is of the essence for all deliveries.

Payment

Prior to payment, the items furnished and/or work performed will be inspected by the City of Watervliet to determine their conformity to specifications. No payment shall be made for items not meeting specifications.

Payment shall be made upon the submission of a completed invoice.

All prices bid shall include freight and shall be quoted F.O.B. destination.

The City of Watervliet is not subject to Federal, State or Local Taxes.

Iranian Energy Sector Divestment

Contractor/Proposer hereby represents that said Contractor/Proposer is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment", in that said Contractor/Proposer has not:

(a) Provided goods or services of \$20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

Any Contractor/Proposer who has undertaken any of the above and is identified on a list created pursuant to Section 165-a (3)(b) of the New York State Finance Law as a person engaging in investment activities in Iran, shall not be deemed a responsible bidder pursuant to Section 103 of the New York State General Municipal Law. Except as otherwise specifically provided herein, every Contractor/Proposer submitting a bid/proposal in response to this Request for Bids/Request for Proposals must certify and affirm the following under penalties of perjury:

(c) "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder is not on the list created pursuant to NYS Finance Law Section 165-a (3)(b)."

The City of Watervliet will accept this statement electronically in accordance with the provisions of Section 103 of the General Municipal Law.

Except as otherwise specifically provided herein, any Bid/Proposal that is submitted without having complied with subdivision (a) above, shall not be considered for award. In any case where the Bidder/Proposer cannot make the certification as set forth in subdivision (a) above, the Bidder/Proposer shall so state and shall furnish with the bid a signed statement setting forth in detail the reasons therefore. The City reserves its rights, in accordance with General Municipal Law Section 103-g to award the Bid/Proposal to any Bidder/Proposer who cannot make the certification, on a case-by-case basis under the following circumstances:

(1) The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

2) The City of Watervliet has made a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City of Watervliet would be unable to obtain the goods or

services for which the Bid/Proposal is offered. Such determination shall be made by the City in writing and shall be a public document.

Insurance and Security Provisions when applicable

The Successful Vendor will be required to procure and maintain solely at its own expense, until final acceptance by the City of the services covered by this Bid/Agreement, insurance of the kinds and in the amounts provided below. Before commencing work, the Successful Vendor shall deliver to the City of Watervliet Corporation Counsel or his designee, a certificate or certificates of form and content satisfactory to the City of Watervliet Corporation Counsel, showing that:

The insurance is endorsed to provide written notice be given to the City of Watervliet, at least forty-five (45) days prior to the cancellation, non-renewal, or material alteration of such policies; and the "City of Watervliet" is named as an *additional insured*. Bid or Proposal Name must appear on policy. The additional insured requirement does not apply to Workers Compensation or Professional Liability coverage.

Prior to commencing the work, the Successful Vendor shall procure, and thereafter maintain, at its own expenses, until final

acceptance of the work or later as required by the terms of the contract, insurance coverage. All insurers shall have at least an A- (excellent) rating by A.M. Best and be qualified to do business and issue the requisite line of insurance in the State of New York. This insurance will provide a defense and indemnify the City. Proof of this insurance shall be provided to the City before the work commences. In no event shall the failure to provide this proof, prior to the commencement of the work, be deemed a waiver by the Contractor's obligations set forth herein. In the event that the insurance company(ies) issuing the policy(ies) required the contract deny coverage to the City, Contract will, upon demand by the City, defend and indemnify the City.

The City, along with their respective officers, agents and employees, shall be named as additional insured on the Business or Commercial Automobile Liability Policy and for Ongoing Operations and Products/Completed Operations on the Contractor's Commercial General Liability Policy and Excess or Umbrella Policy. The Contractor shall continue to carry Completed Operations Liability Insurance for at least three (3) years after either ninety (90) days following substantial completion of the work or final payment to the Contractor.

It is expressly understood that any insurance obtained by the City shall be deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the Contractor, or any of their respective consultants, officers, agents, employees or anyone directly or indirectly employed by any of them, or by anyone whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.

To the full extent permitted by application State law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile Liability, Excess or Umbrella Liability and Workers Compensation policies in favor of the City, and this clause shall apply to City's officers, agents and employees, with respect to all work during the policy term. Prior to commencement of work, Contractor shall submit a Certificate of Insurance in favor of the City and an Additional Insured Endorsement are required hereunder. The required Insurance policies and Certificate shall provide for thirty (30) days advance notice to City of the cancellation or any change in coverage. Copies of insurance policies shall promptly be made available to the City upon request.

The kinds and amounts of insurance to be provided are as follows:

- A. **Worker's Compensation and Employer's Liability Insurance** meeting all New York State statutory requirements. A policy or policies providing protection for Employees of the obligor in the event of job related injuries.

Workers' Compensation and Employers' Liability Insurance

**\$500,000 Each Accident;
\$500,000 Each Employee
for Injury by Disease;
\$500,000 Aggregate for
Injury by Disease.**

- B. **Business or Commercial Automobile Liability Policy or Policies** with limits of not less than \$1,000,000 for each accident because of bodily injury, sickness or disease sustained by any person, including death at any time, caused by accident and arising out of the ownership, maintenance or use of any automobiles. In addition the automobile liability policies shall have limits of not less than \$1,000,000 for each accident for damage to property,

including all resulting loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.

Business or Commercial Automobile Liability Insurance

\$1,000,000 Combined Single Limit per accident

C. **Commercial General Liability Insurance** including comprehensive form, accident for damage to property, including all resulting loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles. premises and completed operations, products-completed operations, personal & advertising injury, cross liability coverage, independent contractors, and broad form property insurance shall be furnished with limits of not less than:

\$1,000,000 Each Occurrence Limit (Bodily Injury and Property Damage)

\$2,000,000 General Aggregate per Project

\$1,000,000 Personal and Advertising Injury Limit

D. If providing professional services, Errors and Omissions policy with limit of not less than \$2,000,000 per loss, which policy applies to professional errors, acts, or omissions arising out of the scope of services covered by this Bid/Agreement.

E. **Excess or Umbrella Liability** (to overlay Employer's Liability, Automobile Liability and Commercial General Liability coverages)

\$5,000,000 Occurrence/aggregate

Certificate acceptance and/or approval by the City does not and shall not be construed to relieve the Successful Vendor of any obligations, responsibilities or liabilities under this Agreement. The Successful Vendor shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject.

Not less than thirty (30) days prior to the expiration date or renewal date, the Successful Vendor shall supply to the City updated replacement Certificates of Insurance, and amendatory endorsements.

Failure to obtain and/or keep in effect any or all required insurance on behalf of the City as provided above will constitute a material breach of contract and subject the Successful Vendor to liability for damages, indemnification and all other legal remedies available to the City. The insurance requirements shall not be construed to conflict with the obligations of the Successful Vendor concerning indemnification.

Failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for the City's immediate termination of any Agreement with the Successful Vendor, subject only to a five (5) business day cure period. Any termination by the City as provided herein shall in no event constitute or be deemed a breach of this Agreement and no liability shall be incurred by or arise against the City of Watervliet, its agents and employees for such termination for lost profits or any other damages.

Bid Security

Each Bid must be accompanied by Bid security payable to the City of Watervliet in an amount of five percent of the Bidder's maximum bid price and in the form of either a certified or bank check payable to the City of Watervliet or a Bid Bond on form attached issued by a surety.

The Bidder to which the contract may be awarded shall deliver to the place of the Bid opening the sureties offered by the Bidder within seven (7) days after the date of the Notice of Award and then sign the Agreement in duplicate.

The Bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required contract security, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security with seven (7) days after the the Notice of Award, the City may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of the Bidders whom the City believes to have a reasonable

chance of receiving the award may be retained by the City until the earlier of the seventh day after the effective date of the Agreement or the forty-sixth day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven (7) days after the Bid opening.

Contract Security

Before the execution of the Agreement, the successful Bidder shall furnish separate performance and separate payment bonds, each in the sum of 100% of the Contract Price named in the Bid, conditioned upon faithful performance of the Contract. The Bond forms covering both performance and labor and materials, required are attached. The bonds shall be maintained in full force for a period of twelve months after date of final certificate as a guarantee that the contractor will make good any faults or defects in the work arising from improper or defective workmanship or

materials which may appear during that period.

Pre-Bid Meeting

A pre-bid meeting will be held on Tuesday, July 21, 2020 at 10:00 AM at Watervliet City Hall, City Clerk's Office, 2 Fifteenth Street, Watervliet, New York 12189. All bidders are strongly encouraged to attend.

QUALIFICATION OF BIDDERS

The following is a list showing the name, location, date of construction, a general description of the work, and the amount of the contract of work of a similar nature constructed by the undersigned and which has been completed and in operation for a period of not less than one year.

1. Project Name: _____
Location _____
General Description of Project _____
Completion Date: _____
Amount of Construction Contract: _____
Phone Number: _____

2. Project Name: _____
Location: _____
General Description of Project _____
Completion Date: _____
Amount of Construction Contract: \$ _____
Phone Number: _____

3. Project Name: _____
Location: _____
General Description of Project _____
Completion Date: _____
Amount of Construction Contract \$ _____
Phone Number: _____

BID FORM

The undersigned Bidder proposes and agrees if this Bid is accepted, to enter into an agreement with the City of Watervliet to perform and furnish all Work as specified or indicated in the Bid Specification and within the time indicated in the Bid Specification and in accordance with the other terms and conditions contained in the Bid Specification. Bidder accepts all of the terms and conditions of the Notice to Bidders and Instructions to Bidders, including without limitation those dealing with the disposition of Bid Security.

Company Name: _____

Company Address: _____

Contact Person: _____ Phone: _____

Contact Email: _____ Website(optional) _____

We propose to provide the materials, equipment and work necessary to complete this job in conformance with the specification and contract.

*Location/Description	Location Bid Amount
9 th Avenue between 19 th Street and 15 th Street	\$ _____
15 th Street between Avenue A and 9 th Avenue	\$ _____
Avenue A between 15 th Street and 16 th Street	\$ _____
TOTAL BID AMOUNT	\$ _____

*Locations may be removed based on need and budget.

ALL WORK MUST BE COMPLETED BY AUGUST 28, 2020.

An Individual

By: _____ (Individual's Name)
Doing business as _____
Business address: _____
Phone Number: _____

Signature

A Partnership

By _____
Business Address: _____
Phone Number: _____

Signature

A Corporation

By _____ (SEAL)
(Corporation Name)

(State of Incorporation)

By _____
(Name of Person Authorized to Sign)

Signature

Title
(Corporate Seal)

Attest _____
(Secretary)

Business Address: _____
Phone Number: _____

A Joint Venture

By _____
(Name)

Address _____

(Signature)

By: _____
(Name)

Address _____

(Signature)

(Each joint venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above).

OFFER OF SURETY

(COMPLETE ONLY WHEN BID ACCOMPANIED BY A CERTIFIED CHECK)

In the event the above Bid is accepted and the undersigned is awarded the contract for the work, the undersigned offers surety for faithful performance bond, and on bond to protect labor and materialmen, the following surety:

(Surety Company)

Signed: _____

(Bidder)

CERTIFICATE OF SURETY, to be signed by a duly authorized official, agent or attorney of the Surety Company.

In the event that the above Bid is accepted, and the contract for the work is awarded to said

(Name of Bidder)

the _____

(Surety Company)

will execute the Surety Bonds as hereinbefore provided.

Signed: _____

(authorized official, agent/attorney)

Dated: _____

NON-COLLUSIVE BIDDING CERTIFICATE

Pursuant to Section 103-D of the General Municipal Law of the State of New York:

- (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization under penalty of perjury, that to the best of knowledge and belief:
1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other bidder or to any competitor and
 3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
- (b) A bid shall not be considered for award nor shall any award be made where (a) (1), (2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor, where (a)(1), (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

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

Any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

By submission of this bid or proposal, the Bidder certifies that:

- a. This bid or proposal has been independently arrived at without collusion with any other bidder or with any competitor;
- b. This bid or proposal has not been knowingly disclosed and will not be willingly disclosed, prior to the opening of bids or proposals for this project. To any other bidder, competitor;
- c. No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
- d. The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certificate, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing in its behalf;

- e. The person executing this bid document shall be a duly authorized representative of the Company, Corporation or Business seeking to provide the product or products described herein, with the authority and knowledge to execute the bid documents and provide the required certifications and documentation.

The full name and residence of all persons and parties interested in the foregoing bid as principals are as follows:

_____	_____
_____	_____
_____	_____
_____	_____

Signature _____

Business Address
of Bidder _____

Dated at _____ the _____ day of _____, 2020

(Seal)-If bid is by a corporation.

IRANIAN ENERGY SECTOR DIVESTMENT

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

- A. By submission of this bid/proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid, each party thereto certifies as to its own' organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the New York State Finance Law.
- B. A Bid/Proposal shall not be considered for award, nor shall any award be made where the condition set forth in Paragraph A above has not been complied with; provided, however, that in any case where the bidder/proposer cannot make the foregoing certification set forth in Paragraph A above, the bidder/proposer shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where Paragraph A above cannot be complied with, the Purchasing Unit to the political subdivision, public department, agency or official thereof to which the bid/proposal is made, or his designee, may award a bid/proposal, on a case by case business under the following circumstances:
1. The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
 2. The political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.
- C. By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ocis.ny.gov/about/reqs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or awarded. During the term of the Contract, should the City of Watervliet receive information that a person (as defined in State Finance Law Section 165-a) is in violation of the above-referenced certifications, the City of Watervliet will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the City of Watervliet shall take such action as may be appropriate

and provided bylaw, rule or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default. The City of Watervliet reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities List after contract award.

Signature

Printed Name

Title

Date _____

Company Name

SECTION 00310-A

BID BOND

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

BIDDER (Name and Address):

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

OWNER (Name and Address):

BID

Bid Due Date:

Description (Project Name and Include Location):

BOND

Bond Number:

Date (Not earlier than Bid due date):

Penal sum _____ \$ _____
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

Bidder's Name and Corporate Seal (Seal) Surety's Name and Corporate Seal (Seal)

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

SECTION 00503
PERFORMANCE BOND

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

CONTRACTOR (*Name and Address*):

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

OWNER (*Name and Address*):

CONTRACT

Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND

Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal (Seal)

Surety's Name and Corporate Seal (Seal)

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.
2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
 - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
 - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
 - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
 1. Surety in accordance with the terms of the Contract; or
 2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.
3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
 - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
 - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
 - 3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
 2. Deny liability in whole or in part and notify Owner citing reasons therefor.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

- 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
- 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
- 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

<p>FOR INFORMATION ONLY – (<i>Name, Address and Telephone</i>) Surety Agency or Broker: Owner's Representative (<i>Engineer or other party</i>):</p>
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**SECTION 00504
PAYMENT BOND**

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

CONTRACTOR (*Name and Address*):

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

OWNER (*Name and Address*):

CONTRACT

Effective Date of Agreement:

Amount:

Description (*Name and Location*):

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal (Seal)

Surety's Name and Corporate Seal (Seal)

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (Name, Address, and Telephone)

Surety Agency or Broker:

Owner's Representative (Engineer or other):