

REQUEST FOR INFORMATION

(Barton Avenue Levee Extension Bid)

2-25-2020

ANSWERS BY GRIFFITHS ENGINEERING

1. We do not normally specify the rate of permeability (a function of gradation and in-place density) as criteria for Engineered Fill, the material must comply with the gradation requirements and the specified compaction requirements during placement, the latter criteria are much easier to test and provide more accurate results.
2. The Geotextile Fabric specified on the Drawings is suitable for the intended purpose(s) and shall be used throughout the project.
3. The limits of excavation (unclassified) are clearly shown in the Section Views including 2'-0" minimum cut, benching into existing (where required) and establishing the toe drain. This item would also include excavation required for modifying and relocating sidewalks. Please note that stripping of topsoil should offset this quantity.
4. Quantities for Itemized Bid have been revised and are attached. [T.O.U. shall revise the Bid Sheet(s) accordingly]
5. Completion Date: August 1, 2020.
6. Liquidated Damages: None.
7. Maintenance Period: One year.
8. The new insurance requirements provided by the Dept. of Public Works are attached.



BARTON AVENUE LEVEE EXTENSION - CONSTRUCTION

TOWN OF UNION - BROOME COUNTY

EARTHEN EMBANKMENT LEVEE (TOP OF LEVEE ELEV 841.00')

2/25/2020

ITEM DESCRIPTION	QUANTITY	UNITS	ENGINEER'S ESTIMATE	
			UNIT PRICE	TOTAL
CLEARING & GRUBBING	1	LS		
STRIP & STOCKPILE TOPSOIL	4670	SY		
UNCLASSIFIED EXCAVATION & DISPOSAL	2135	CY		
EMBANKMENT IN-PLACE (ENGINEERED FILL)	5550	CY		
6" DIA. PERFORATED TOE DRAIN	585	LF		
TOE DRAIN STONE FILTER - COURSE	135	CY		
TOE DRAIN STONE FILTER - FINE	430	CY		
GEOTEXTILE FABRIC	5705	SY		
TOPSOIL, SEED & MULCH	3800	SY		
ASPHALT BINDER COURSE	145	TONS		
ASPHALT TOP COURSE	20	TONS		
MOBILIZATION & DEMOBILIZATION	1	LS		
EROSION & SEDIMENTATION CONTROL ALLOWANCE	1	LS		
SURVEY & STAKEOUT ALLOWANCE	1	LS		
TEMPORARY MPT (DETOURS, SIGNAGE & BARRICADES)	1	LS		
MATERIAL TESTING (FIELD & LAB)	1	LS		
TOTAL				

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Liability Insurance

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including private entities performing Work at the site and exempt from the coverage on account of number of employees or occupation, which entities shall remain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project, or persons or entities excluded by statute, but required by the Contract Documents to provide the insurance.

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

Insurance Requirements

Contractor agrees to procure and maintain the following insurance, as specified below, in full force and effect without interruption from date of commencement of the Work until final payment or completion of all warranty work performed after final payment, whichever occurs later, and to fully comply with all additional requirements and conditions set forth hereafter as follows:

- a) The insurance required herein shall be submitted on the ACORD FORM 25-S Certificate of Insurance, and shall be written for not less than the following minimum amounts or greater if required by law, except that if Contractor procures any policy limits greater than the amounts required herein, then the higher limits shall apply as though stated and required herein. At the same time as the ACORD form is submitted, the Contractor must also submit valid proof of endorsements for additional insureds, and submit a waiver of subrogation.

Workers' Compensation and Employer's Liability Insurance	As required by statute. No exclusions for partners, proprietors or executive officers.
Comprehensive Automobile Liability (including owned, non-owned, leased and hired automobiles).	\$1 million combined single limit for owned, hired and borrowed and non-owned motor vehicles.

Commercial General Liability:
(Insurance for liability due to
personal injury, bodily injury or
property damage sustained or
alleged to have been sustained by
any person):

- a) General Aggregate \$ 2,000,000
- b) Each Occurrence \$ 1,000,000
- c) Personal and Advertising Injury \$1,000,000
- d) Products and Completed Operations Aggregate \$2,000,000
- e) Fire Damage Legal Liability \$ 50,000
- fl Medical Expense \$ 5,000

Excess Liability \$5,000,000
Each occurrence and aggregate.
On a "Follow Form basis"

Owner Contractor Protective Liability (OCP) \$1,000,000 each occurrence
\$2,000,000 aggregate
Owner as named insured

Certificate Holder:

Town of Union, -

- b) The Commercial General Liability General Aggregate shall apply on a "per project" basis. There shall be no exclusions for explosion, collapse and underground operations ("XCU")
- c) All required policies and coverages shall be written on an occurrence basis, as claims-made coverage is not acceptable.
- d) Additional Insured coverage: The Comprehensive Automobile Liability policy, Commercial General Liability ("CGL") policy, and Excess Liability policy, specified above, shall each:
 - 1. Include the Town of Union; Architects & Engineers, and _____ as additional insureds on a primary and non-contributory basis for the name of project.
 - A) With respect to the Comprehensive Automobile Liability policy, ISO endorsement CA 20 48 02 99 shall be substituted in lieu of CG 20 10 11 85 or its approved equivalent, and
 - B) With respect to the Excess Liability policy, additional insured status may be provided through a "follow-form" approved by the Owner and Architect, in lieu of CG 20 10 11 85 or its approved equivalent when the latter is not made available by the insurer, such that the required additional insured coverage will follow the form of the CGL policy and the Comprehensive Automobile Liability Policy; and
 - C) The Additional Insured Endorsement or policy language granting the required Additional Insured status must be attached to the Certificate of Insurance.
- 2. Provide that such insurance is primary insurance with regard to the interests of the

additional insureds and that any other insurance maintained by the additional insureds is excess.

- e) All insurance required herein must be with insurers licensed to conduct business in New York State and acceptable to the Owner. In addition, each insurance policy naming the Architect and the Owner as additional insured shall be a policy from an insurer with an A.M. Best "Secure" rating, meaning a rating from A- to AA*, or better.
- f) Prior to commencing any work or any services required under this Agreement, Contractor shall provide certificates of insurance on approved form to the Owner and Architect, evidencing that Contractor has procured the insurance policies and coverages required herein. Each certificate of insurance must state that coverage will not be altered, canceled or allowed to expire without thirty (30) days prior written notice, by mail, to the Owner and Architect, except that the period of prior written notice shall be reduced from thirty (30) days to ten (10) days for any cancellation due to non-payment of premium. Whenever a policy of insurance names or is required to name the Owner and/or Architect as additional insureds, the certificate of insurance that the Contractor must provide for each such policy shall also include a copy of the required endorsement granting additional insured status.
- g) The Contractor agrees to indemnify the Owner and Architect for all deductibles or self-insured retentions applicable to any insurance policy required herein to name them as additional insured.
- h) The Contractor agrees that before it utilizes a Subcontractor to perform any part of the work or services required under this Agreement, Contractor will require each such Subcontractor to procure equivalent insurance coverages and limits for the protection of the Subcontractor, Owner and Architect, including but not limited to the additional insured coverage for Owner and Architect, described more fully above. Subcontractor and Contractor will both be equally responsible for providing the required evidence of insurance coverage to the Architect.
- i) The Contractor acknowledges that failure to secure the above-specified insurance constitutes a material breach of this Agreement and subjects Contractor to liability for damages and all other legal remedies available to the Owner and/or Architect. Contractor further acknowledges that procurement of the insurance coverage and limits required herein shall not limit the extent of the Contractor's other responsibilities and liabilities specified within this Agreement or by law. Contractor authorizes Owner and/or Architect to withhold payments without interest, late fee or any other penalty accruing, until the latter has received current and acceptable certificates of insurance and endorsements evidencing insurance as required herein.
- j) Contractor shall fully cooperate at all times with any effort by Owner or Architect to audit compliance with these insurance requirements, including but not limited to the Contractor authorizing Owner and/or Architect, in writing to obtain certified copies of the insurance policies procured or maintained by the Contractor in relation to this Agreement. Failure of the Contractor to provide any such required authorization within seven (7) business days of receiving a written request for same from the Owner, the Owner's Town Attorney, or the Architect, shall subject the Contractor to liquidated damages, payable solely to the Owner, in the amount of \$1,000 per each calendar day thereafter that Contractor fails to comply with any such request.
- k) Owner's Protective Liability Insurance (OCP):** The Owner will require the Contractor to procure and maintain at Contractor's own expense until final completion of the work covered by the Contract, and any extensions thereof, Owner's and Contractor's Protective Liability Coverage

issued to and naming the Owner, Architect, and Construction Manager and covering the liability for damages imposed by law upon the Owner, Architect, and Construction Manager with respect to all operations under the agreement by the Contractors or its Subcontractors, including omissions and supervisory acts of the Owner, Architect, and Construction Manager. Such policy shall be delivered to the Owner, Architect, and Construction Manager no later than fifteen (15) days of awarding of the Contract.

- I) **Asbestos/Lead Abatement Insurance:** If the Contractor's work on this project involves handling or disturbance of asbestos or other hazardous materials, the Contractor shall provide bodily injury and property damage liability insurance applicable to this hazard at limits of not less than the following:

If covered by this contractor's umbrella/excess policy:

General Aggregate	\$1,000,000.00
Each Occurrence or Incident	\$1,000,000.00

If NOT covered by this contractor's umbrella/excess policy:

General Aggregate	\$6,000,000.00
Each Occurrence or Incident	\$6,000,000.00

If written on a "Claims-Made" basis, and a retroactive date is used, the retroactive date must pre-date the execution of the contract.

If automobiles are to be used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage (ISO endorsement CA 9948) as well as proof of MCS 90.

Workers' Compensation Requirements Under WCL §57:

To comply with coverage provisions of the Workers' Compensation Law, businesses must:

- A) be legally exempt from obtaining workers' compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be self-insured or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing Section 57 of the Workers' Compensation Law, businesses requesting permits or seeking to enter into contracts **MUST provide One** of the following forms to the government entity issuing the permit or entering into a contract:

- A) WC/DB-100, Affidavit for New York Entities and any out of state entities with no employees, that New York State Workers' Compensation and/or disability benefits insurance coverage is not required; OR

WC/DB-101, Affidavit that an Out-of-State or foreign employer working in New York State does not require specific New York State Workers' Compensation and/or disability benefits insurance coverages; OR

(Affidavits must be stamped as received by the NYS Workers Compensation Board)

Forms WC/DB-100 and WC/DB-101 are available on the Board's website, www.wcb.state.ny.us, under the heading "Common Forms online." They may also be obtained by writing or visiting any District Office of the Workers' Compensation Board.

- B) C-105.2 — Certificate of Workers' Compensation Insurance (the business' insurance carrier will send this form to the government entity upon request) **Please Note:** The State Insurance fund provides its own version of this form, the U-26.3; OR
- C) SI-12 — Certificate of Workers' Compensation Self Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), or GSI-105.2 — Certificate of Participation in Workers' Compensation Group Self Insurance (the business' Group Self Insurance Administrator will send this form to the government entity upon request).

Disability Benefits Requirements under WCL §220 SUBD 8:

To comply with coverage provisions of the Disability Benefits Law, businesses may:

- A) be legally exempt from obtaining disability benefits insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be self-insured.

Accordingly, to assist State and municipal entities in enforcing Section 220 Subd. 8 of the Disability Benefits Law, **businesses** requesting permits or seeking to enter into contracts **MUST provide One** of the following forms to the entity issuing the permit or entering into a contract:

- A) WC/DB-100, Affidavit for New York Entities and any out of State entities with no employees, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is not required; OR WC/DB-101, Affidavit that an Out-Of-State or Foreign Employer working in New York State does not require specific New York Workers' Compensation and/or Disability Benefits Insurance coverage; OR (Affidavits must be stamped as received by the NYS Workers' Compensation Board)
Forms WC/DB-100 and WC/DB-101 are available on the Board's website, www.wcb.state.ny.us, under the heading "Common Forms Online". They may also be obtained by writing or visiting any District Office of the Workers' Compensation Board.
- B) Either the DB-120.1 — Certificate of Disability Benefits Insurance OR the DB-820/829 Certificate/Cancellation of Insurance (the business' insurance carrier will send one of these forms to the government entity upon request); OR
- C) DB-155 — Certificate of Disability Benefits Self-Insurance (the business calls the Board's Self Insurance Office at 518-402-0247).

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be submitted to the Construction Manager for transmittal to the Owner with a copy to the Architect prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with

the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Construction Manager, the Construction Manager's consultants, the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 Property Insurance

§ 11.3.1 The Owner has an existing Property Insurance policy, with a company lawfully authorized to do business in the jurisdiction in which the Project is located. Such property insurance will continue to be maintained throughout the course of construction. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance is on a Special Form (ISO #CP 1030) or equivalent plus Ordinance or Law (ISO #CP 0405 & CP0010) policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Architect's, Contractor's, and Construction Manager's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.3 The Contractor shall provide insurance coverage for portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also for portions of Work in transit

§ 11.3.1.4 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.1.5 Insurance required by paragraph 11.3 is not intended to cover machinery, tools, or equipment owned or rented by the Contractor which are utilized in the performance of the work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor's own expense, provide insurance coverage for owned or rented machinery, tools, or equipment.

§ 11.3.2 **Boiler and Machinery Insurance.** The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Construction Manager, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 **Loss of Use Insurance.** The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

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§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, adjoining or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 11.3.7 **Waivers of Subrogation.** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees each of the other, and (2) the Construction Manager, Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as the Owner and Contractor may have to the proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, Owner's separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or distribution of insurance proceeds in accordance with the direction of the arbitrators.

§ 11.4 Performance Bond and Payment Bond

§ 11.4.1 The Contractor shall furnish, in duplicate, bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds shall be obtained from a surety company satisfactory to the Owner, licensed to do business in the State of New York (where the project is located), listed in the latest issue of the U.S. Treasury Circular 570, and on the New York State Insurance Department's website listing insurers.

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