

SHORT FORM SUBCONTRACT

LECESSE Construction Services, LLC (version 14 3/08 file = SFSCv14.DOC)

This Subcontract made on (insert date of contract) _____ by and between LECESSE Construction Services, LLC, 75 Thruway Park Dr. West Henrietta, NY 14586 hereinafter called LECESSE & the company named below, hereinafter called Subcontractor.

CONTRACT No.
This number and project name must appear on all invoices and delivery tickets or payment will be delayed.

Subcontractor Company Name: _____

~~Subcontractor~~ **Subcontractor Address:** _____

AAA

Phone: _____ ~~AXXKX~~ _____

for work on (project name) _____

Located at _____

Contract Documents Prepared By: _____ **Dated** _____

LECESSE has entered, or is about to enter, into a Contract with the Owner in accordance with Contract Documents prepared by the Architect for the Project referenced above. The parties agree that Subcontractor shall perform the following Work on the Project.

Scope of Work:

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Contract Price: For the above work, LECESSE will pay Subcontractor the amount of : Base \$ _____

Payment: See Attachment D for Billing Instructions.

Sales Tax Included _____ % Tax Amount _____

Sales Tax Exempt

Total \$
Contract Price

Retainage = %

Schedule: Start _____ Complete by _____ **TIME IS OF THE ESSENCE**

INSURANCE - Types of coverage and limits required of all subcontractors, (regardless of contract value) & others entering the site (sub-subcontractors, suppliers, delivery people, etc...) are:
Commercial General Liability General Aggregate \$2,000,000 on an occurrence basis, per project, \$1,000,000 each occurrence; Products-Completed Operations Aggregate \$2,000,000, Personal and Advertising Injury \$1,000,000, Each Occurrence \$1,000,000, Fire Damage \$50,000, Medical Expense \$5,000, Automobile Liability combined single limit \$1,000,000, Excess Liability each occurrence \$5,000,000, Aggregate \$5,000,000, Workers Comp - Statuary in the state where the project is located, Employer's Liability Each accident \$100,000, Disease - policy limit \$500,000, Disease each employee \$100,000, Owned/rented equipment replacement cost \$50,000. LECESSE Construction Services, LLC, the Owner, Architect and Construction Manager shall be named as additional insured on a primary and noncontributing basis for all liability policies. See sample Certificate of Insurance for complete requirements.

See Pages 2 & 3 for additional terms and conditions which are included in and part of this subcontract.

Signatures: For Subcontractor: Date ____/____/____ For LECESSE Construction Services, LLC: ____/____/____

By: _____ By _____

Task Codes: Project No. _____ BLDG _____ HUD _____ Task Code _____ Cost Type S

NOTE: This Agreement may be transmitted and executed electronically or by facsimile and in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

ADDITIONAL TERMS AND CONDITIONS to LECESSE SHORT FORM SUBCONTRACT v14 3/08 file = SFSC2&3v14.doc

1. **The Work** Subcontractor agrees to perform and complete the Work (as that term is defined on the front of this Subcontract) according to the General Contract, the plans, specifications, all addenda, and all other duly promulgated related documents (referred to collectively as the Contract Documents), and there shall be no departure by Subcontractor therefrom without the prior knowledge and written consent of LECESSE. Subcontractor shall comply with all orders, plans and agreements required by the General Contract as though Subcontractor were a signatory thereto. Definitions: **Furnish** means to supply and deliver F.O.B. to Project Site, Unload and leave ready for installation. **Install** means to unload, store, secure, unpack, move to point of use, assemble, erect, place, anchor, apply, work to dimension, finish, cure, protect, clean and perform all operations which make the Work complete and ready for use. Install also includes providing all scaffolding, hoisting, fasteners, adhesives, tools, equipment and all things necessary to complete the installation. **Provide** means Furnish & Install.
2. **Quality of the Work** All of the Work shall be performed to the satisfaction of LECESSE, the Architect/Engineer, Engineer and Owner and/or their authorized representatives. Any Work of Subcontractor (whether or not incorporated into the Work) which fails to comply with the Contract Documents shall be removed and replaced by Subcontractor, at Subcontractor's own cost and expense, within 24 hours after written notice from LECESSE to such effect. Subcontractor at all times shall keep the Premises free from accumulations of waste materials and rubbish occasioned by its Work. If Subcontractor fails to comply with these provisions, LECESSE may, at its sole discretion, perform such work and charge Subcontractor.
3. **Warranty/Guarantee** Notwithstanding the obligations of any other Subcontractor or supplier in any way related to Subcontractor's work, labor or materials, Subcontractor shall be responsible to LECESSE, Architect/Engineer and Owner for the acceptability and guaranty of its Work, labor and materials to the full extent provided for in the Contract Documents. Unless otherwise provided for in the related Contract Documents, Subcontractor fully guarantees to LECESSE and Owner all its work for a period of one (1) year from final acceptance by the Owner, or for such longer period required by the Contract Documents. Subcontractor shall provide to LECESSE copies of all guarantees and/or warranties Subcontractor receives from any supplier, materialman or sub-Subcontractor.
4. **Timely Performance** The Subcontractor will be responsible for any damages (including liquidated damages if called for by the General Contract) due to its failure to perform in a timely manner.
5. **Payments** All payments made by LECESSE to Subcontractor hereunder shall be held in trust and used for the payment of labor, equipment and materials purchased for the Project and for payment of suppliers and sub-Subcontractors of Subcontractor (if any), all in accordance with the requirements of the applicable law. Upon receipt of such payments from LECESSE, Subcontractor shall immediately pay its related suppliers and sub-Subcontractors.
6. **Relationship of Payments to Acceptance** No payment made under this Agreement shall be conclusive evidence of the performance of the Work under this Agreement, in whole or in part, and no such payment shall be construed to be an acceptance of any Work or materials.
7. **Insurance** Prior to commencing the Work, Subcontractor, at its own cost and expense, will furnish to the satisfaction of LECESSE such insurance as is described on the front of this form. Such insurance shall remain in effect until the Work is accepted.
 - a. Subcontractor shall give evidence to LECESSE that any person or party working for Subcontractor either as a sub-Subcontractor, employee, materials supplier or otherwise, is also covered by Worker's Compensation or equivalent insurance should such person or party come within the purview of the Worker's Compensation Act or equivalent statute of the state in which the Project is located.
 - b. All insurance shall be on an occurrence basis and in amounts equal to those required of LECESSE under the General Contract and further, will comply with minimum amounts established by LECESSE. All insurance shall be written in compliance with the laws and promulgated regulations of the state in which the Project is located.
 - c. The certificates for all insurances required shall be submitted to LECESSE and shall be endorsed or otherwise bear written evidence of the applicability to this Agreement; and Subcontractor will also provide to LECESSE one copy of each insurance policy if requested by LECESSE. All insurance required must be in effect prior to the commencement of any Work and remain in effect until the Work is finally accepted by the Owner. All policies must name LECESSE, the Owner and See Attachment H as additional named insureds on a primary and non-contributing basis for all liability policies and provide for mandatory 30 day notification to LECESSE and Owner in the event of cancellation, amendment or non-renewal.
 - d. If Subcontractor fails to procure and maintain such insurance, LECESSE shall have the right, but not the obligation, to procure and maintain the said insurance for and in the name of Subcontractor, and Subcontractor shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance or, at LECESSE's option, LECESSE may offset the cost incurred by LECESSE against amounts otherwise payable to Subcontractor.
8. **Accident Prevention** Subcontractor shall abide by all applicable federal, state and local laws, rules and regulations, especially those regarding a safe work site, including, but not limited to, all laws, rules, regulations and guidelines set forth from time to time by OSHA, and Subcontractor shall require such compliance from its sub-subcontractors, suppliers, agents and representatives.
 - a. Subcontractor shall submit to LECESSE a copy of its safety program prior to beginning work on the Project. This program shall be reasonably acceptable to LECESSE, however, LECESSE assumes no responsibility for Subcontractor's safety program; and provided further that LECESSE shall not be responsible for such safety program and its receipt and acceptance of the safety program shall not be deemed to be a certification or other verification of the adequacy of the program or to impose any responsibility or liability on LECESSE whatsoever, and Subcontractor shall be solely responsible for the design and implementation of its safety program. Subcontractor that creates an exposure is responsible to protect it.
 - b. In the event that the Subcontractor uses any facilities, tools or equipment owned, leased or operated by LECESSE, the Subcontractor does so at its own risk. In furtherance, and not in limitation of the generality of the foregoing, before using any of such items, Subcontractor shall thoroughly inspect such facilities, tools and/or equipment and assure that they are in proper and safe working order and warranties to LECESSE that Subcontractor's operators of such equipment are licensed or otherwise qualified to operate such equipment.

- c. LECESSE's Project superintendent, Safety Inspector(s) and other authorized representatives (including without limitation, LECESSE's "competent person(s)" under OSHA regulations) shall have the authority, but not the obligation, to enforce all statutory or reasonable safety requirements on the Premises, including, but not limited to, the authority to: (i) immediately halt any operation or activity which he or she deems to be unsafe; (ii) to dismiss from the Premises any employee or agent of Subcontractor who is not properly outfitted with personal protective equipment or who is working in an unsafe manner and fails to respond to a verbal notice to cease the unsafe work activities; (iii) to impose monetary fines or safety backcharges in accordance with the LECESSE Safety Policy and Procedures (incorporated herein by reference) for violations of LECESSE's safety regulations. Any willful or repeated violations of safety rules or regulations or the reasonable safety instructions issued by LECESSE's Project superintendent or Safety Inspector(s) by Subcontractor or any of its employees, agents, sub-subcontractors or suppliers or any citation by duly authorized inspectors from OSHA or similar agencies at the federal, state or local government levels for a violation of their rules or regulations shall constitute a material default under this Agreement. Upon such a default, LECESSE may immediately terminate this Agreement upon written notice and have the Work hereunder completed by others at Subcontractor's sole cost and expense; and the costs incurred to complete the Work by others shall be charged against any retainages or amounts due Subcontractor for work performed up until the time of default. In the event amounts due are insufficient to fully reimburse LECESSE as the result of termination, Subcontractor remains responsible to LECESSE for any excess amount incurred to complete the Work. Any work stoppage or other action under this Section T(4) shall not increase the time for completion of the Work. The foregoing notwithstanding, Subcontractor shall at all times be primarily responsible for assuring that its employees, agents and sub-subcontractors act in a safe and responsible manner and no act or failure to act by the LECESSE Project superintendent or Safety Inspector(s) or by anyone else shall be deemed to have altered or relieved Subcontractor from such primary responsibility, and Subcontractor hereby acknowledges that neither LECESSE nor its Project superintendent nor its Safety Inspector(s) shall have any liability for any act or failure to act in connection with the safety program.
 - d. In the event that hazardous substances of a type of which an employer is required by law to notify its employees are being used or stored on the Premises by Subcontractor, Subcontractor's sub-subcontractor or anyone directly or indirectly employed or otherwise retained by them or either of them, Subcontractor shall immediately provide written notice of the chemical composition thereof (including, without limitation, a copy of the applicable Material Safety Data Sheet) to LECESSE in sufficient time to permit compliance with such laws by LECESSE, other subcontractors and other employers on the Premises.
9. **Indemnification** To the fullest extent permitted by law, Subcontractor agrees to indemnify and hold harmless LECESSE, and the party known and designated as the Owner and/or Builder, their officers, representatives, agents and employees (individually and jointly the "Indemnified Party") from and against any and all claims, suits, actions, debts, damages, fines, penalties, costs, charges and expenses, including court costs and attorneys fees, arising out of, relating to or resulting from performance of Subcontractor's Work, whether or not such claims or suits arise under statute, including, without limitation, state and federal immigration laws, to the extent caused in whole or in part by acts, actions, omissions, negligence, fault or breach of the Subcontractor, its employees, agents, sub-Subcontractors and/or suppliers. This indemnification shall apply whether or not the related claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorneys' fees, shall arise at the Premises or elsewhere. This paragraph shall include without limitation fees and disbursements of counsel incurred by the Indemnified Party in any action or proceeding commenced by a third party relating to the work to be performed by Subcontractor or in any way arising out of enforcement of the Indemnified Party's rights under this Section.
10. **Compliance with Law and Permits** Subcontractor shall perform all of its work in strict compliance with all applicable local, state and federal laws, rules, regulations and executive orders, including without limitation those regarding affirmative action for minorities and minority business enterprises and equal employment opportunity for minorities. Subcontractor shall comply with all statutory and other safety requirements applying to its work and/or initiated by LECESSE, including without limitation, 29 CFR Part 1926 - OSHA Safety and Health Standards for the Construction Industry, as well as 29 CFR Part 1910 - OSHA General Industry Safety and Health Standards Applicable to Construction, as published by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). Subcontractor shall immediately notify LECESSE orally, and shall give written notice to LECESSE within one (1) day, of the occurrence of any personal injury, whether to an employee or to a member of the public, or of any property damage.
11. **Entire Agreement** This written Agreement comprises the entire agreement of the parties hereto with respect to the Project. This Agreement cannot be amended, modified or changed in any way except by a written instrument executed by both parties or by changes on this document which are initiated by authorized representatives of both parties.