
DECONSTRUCTION CONTRACT

by and between

LOWER MANHATTAN DEVELOPMENT CORPORATION

and

[_____]

for the
cleaning and deconstruction of
130 Liberty Street
New York, NY

dated as of

July ___, 2005

DECONSTRUCTION CONTRACT (this "Deconstruction Contract") dated as of July ____, 2005 by and between LOWER MANHATTAN DEVELOPMENT CORPORATION a subsidiary of Empire State Development Corporation, with offices at One Liberty Plaza (165 Broadway), New York, NY 10006 ("LMDC") and [_____] a _____ [insert type of entity/state of organization], with offices at _____ ("Contractor").

Introductory Statement

This Deconstruction Contract and the accompanying General Conditions cover the planning, engineering, maintenance, cleaning, abatement and removal of interior materials, building deconstruction and disposal of removed materials, site work and all other Work required in connection with the deconstruction of the building and structures (the "Project") located at 130 Liberty Street, New York, New York (defined below as the "Building" or "130 Liberty Street") in accordance with the Scope of Work attached hereto as Annex "6", the Specifications and the other Contract Documents.

The Building was substantially damaged on September 11, 2001 and LMDC acquired the Building from its former owner, Deutsche Bank AG ("DB") on August 31, 2004.

After LMDC acquired the Building, LMDC caused an environmental characterization and follow-up testing of the Building to be performed. The Hazardous Materials, including ACM (defined in the General Conditions), disclosed by such characterization and testing need to be removed from the Building in accordance with all applicable Legal Requirements for the abatement and removal of all interior materials and deconstruction of a building with internal and exterior ACM. After the interior and exterior Hazardous Materials have been removed, LMDC desires to deconstruct the Building to prepare for future redevelopment of the Project site (defined in the General Conditions).

LMDC has caused to be prepared a Deconstruction Plan (as defined in the General Conditions), which defines the main requirements for the cleaning, abatement, removal and disposal of interior and exterior materials, the deconstruction of the Building, and backfilling the Project site. LMDC has also obtained from certain Governmental Authorities a Variance (as defined in the General Conditions) relating to various Legal Requirements applicable to Contractor's Work under this Contract. Contractor will be responsible for preparing a detailed plan ("Contractor's Implementation Plan", as more particularly described in the Scope of Work and Specifications) setting forth Contractor's means and methods, techniques, equipment, transportation plan, and all other details of Contractor's manner and methodology for undertaking and completing all Work required by the Contract Documents, which shall be consistent with the Deconstruction Plan and all Legal Requirements (including the Variances). Contractor's Implementation Plan shall be subject to LMDC's review and acceptance pursuant to this Contract. Contractor shall also be responsible for obtaining every permit (including the ACP-7) of each Governmental Authority required for approval of Contractor's Implementation Plan and the performance and completion of the Work.

LMDC has engaged _____ (the "Scaffolding Contractor") to plan, engineer, and erect the exterior scaffolding pursuant to a separate contract. Contractor will be

required to accept and assume responsibility for the scaffolding as erected by the Scaffolding Contractor pursuant to the acceptance procedure set forth in the Contract (and after such acceptance Contractor will assume entire responsibility for such scaffolding and maintain, repair, insure, and dismantle the same in accordance with the Contract Documents).

Contractor has advised LMDC that Contractor is experienced and properly qualified in the deconstruction of large buildings containing Hazardous Materials and desires to perform the deconstruction of the Building pursuant to the Contract.

Contractor has agreed to complete the Work under this Contract on or before the Final Completion Date, subject to extensions of time for Excusable Delays.

Contractor shall bear the risk without extra compensation of all conditions on the Project Site and on the exterior and interior of the Building, whether or not such conditions are foreseeable. Contractor shall also bear the risk of any and all environmental conditions (including Hazardous Materials or conditions caused by, or resulting from, Hazardous Materials) encountered inside or outside the Building or while performing the Work (except for Non-ACM Building Component HazMat, as defined in the General Conditions, which may be Extra Work in accordance with the Contract). Consequently, Contractor must have all necessary certifications for the performance of all environmental remediation work or other Work associated with all phases of the Contractor's Work.

Also, Contractor shall bear the risk without extra compensation of all delays in the Work, foreseeable or unforeseeable, but will be granted extensions of time, in accordance with and subject to the procedures set forth in the Contract, for Excusable Delays.

This Introductory Statement forms part of the Contract.

NOW, THEREFORE, in consideration of the promises of Contractor and LMDC in this Contract, and subject to the terms of this Contract and intending to be legally bound hereby, Contractor and LMDC agree to keep and perform their respective obligations in and under this Contract, which incorporates and consists of all the terms, covenants, conditions, and provisions of the "Contract" and/or "Contract Documents" as defined below.

[SIGNATURE PAGE FOLLOWS THIS PAGE]

IN WITNESS WHEREOF, Contractor and LMDC have executed this Deconstruction Contract as of the date first above written.

LOWER MANHATTAN DEVELOPMENT CORPORATION

By: _____
Name:
Title:

[Contractor]

By: _____
Name:
Title:

DECONSTRUCTION CONTRACT

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1. GENERAL CONDITIONS; CONTRACT DOCUMENTS

The following words and phrases have the following meanings in this Contract:

"Contract" or "Contract Documents" means all of the following:

- (a) this Deconstruction Contract, together with the Annexes hereto;
- (b) the General Conditions, together with the Schedules and Exhibits thereto;
- (c) the Scope of Work (attached hereto as Annex "6");
- (d) the Specifications;
- (e) the Deconstruction Plan;
- (f) the Variance;
- (g) Contractor's Implementation Plan, as and when finally accepted in writing by LMDC pursuant to the requirements of the Contract Documents; and
- (h) all addenda issued by LMDC prior the signing of this Contract.

"General Conditions" means the General Conditions for the Deconstruction Contract dated the date hereof, initialed by Contractor and LMDC, and attached hereto.

"Owner's Representative" means URS Corporation (or a successor firm designated by LMDC from time to time to provide owner's representation/project representation services).

"Specifications" means the Specifications for this Contract, which form part of, and are incorporated in this Agreement, including Volume I (General Requirements) and Volume II (Technical Specifications), and all schedules, exhibits, annexes, attachments and other documents specified in any of the foregoing as being part of, or incorporated in, the Specifications.

Words and phrases defined elsewhere in this Deconstruction Contract, in the General Conditions, or in other documents forming part of the Contract have the same meaning in all Contract Documents.

Annexes "1" through "7" attached hereto are part of this Deconstruction Contract as though fully set forth herein.

2. PRIORITY OF DOCUMENTS

Notwithstanding anything to the contrary in any of the Contract Documents, express or implied, in case of any conflict or inconsistency between or among any provisions or requirements of any of the Contract Documents, the following order of priority will govern: (i) the provisions of this Deconstruction Contract; then (ii) the General Conditions; then (iii) the Deconstruction Plan; then (iv) the Specifications; and then (v) Contractor's Implementation Plan; and subject to the

foregoing, within the Specifications, the documents forming part of the Specifications shall have the priority (if any) set forth in the Specifications. If any of the Contract Documents conflict with or contradict any Legal Requirement (including the Variance or any other variances issued by Governmental Authorities), the Deconstruction Plan, or any other plan approved by a Governmental Authority (as amended from time to time), the most stringent requirements shall prevail (as directed by LMDC).

3. THE WORK

Upon and subject to the terms and conditions of the Contract Documents, Contractor agrees to do, perform, and furnish the Work set forth in and/or required under, and all in strict accordance with, the Contract Documents and any changes therein; and Contractor further agrees to assume and perform all other duties and obligations imposed upon Contractor by this Contract.

4. LUMP SUM

Upon and subject to the terms and conditions of this Contract, LMDC agrees to pay to Contractor, and Contractor agrees to accept from LMDC, in full consideration for the performance by Contractor of all Work and of all Contractor's duties and obligations of every kind whatsoever under this Contract and the whole thereof, a compensation of _____ dollars (\$ _____) (throughout this Contract called the "Lump Sum"), and such compensation only, subject only to the express provisions of this Contract specifically setting forth actual, defined additions to or deductions from such compensation.

The enumeration in the Contract Documents of particular things to be furnished or done at Contractor's expense, or without cost or expense to LMDC, or without additional compensation to Contractor shall not be deemed to imply that only things of a nature similar to those enumerated shall be so furnished and done; but, notwithstanding whatever obstacles or unforeseeable conditions may arise or be encountered, Contractor shall perform all Work as required under this Contract for the Lump Sum without other compensation (other than payments for Extra Work as specifically provided in this Contract, which, for the avoidance of doubt, do not apply to unforeseen conditions).

5. PERFORMANCE AND PAYMENT BONDS

Simultaneously with the signing of this Contract, Contractor has delivered to LMDC a bond issued by _____ for the faithful performance of all obligations imposed upon Contractor by the Contract (the "Performance Bond") and also a bond for the payment of all lawful claims of subcontractors, materialmen and workers arising out of the performance of the Contract (the "Payment Bond"). Such bonds are in the form attached to the General Conditions as Exhibit "1" (both such bonds sometimes referred to together as the "Bonds"), and are each in a penal sum equal to the Lump Sum. The Bonds form a part of this Contract as though herein set forth in full.

If at any time and for any reason the Bonds shall cease to be adequate security to LMDC by reason of a reduction in the surety's Moody's or Standard & Poor's rating or by reason of the surety's insolvency, Contractor shall, within ten days after notice from LMDC so to do, substitute

new Bonds in such form and sum and signed by such other sureties as may be necessary in the opinion of LMDC to constitute adequate security.

6. TIME FOR COMPLETION

Contractor shall complete the performance of all Work under this Contract on or before the applicable milestone dates set forth in the Contract Documents, and shall cause the Work to be completed prior to the Final Completion Date, time being of the essence in each case.

Contractor's obligations for the performance and completion of the Work within the time or times provided for in this Contract are of the essence of this Contract. Contractor guarantees that Contractor can and will complete the performance of the Work within such time.

7. SCHEDULE OF VALUES; LABOR RATES

The Schedule of Values for Contractor's Work (as proposed by Contractor and accepted by LMDC) is attached hereto as Annex "2". Contractor's labor rates applicable for Extra Work (if any) if, as, and when required under this Contract are attached hereto as Annex "3".

8. BID FORM; ALLOWANCES; UNIT PRICES

The bid form attached hereto as Annex "7" sets forth all pricing information relating to Contractor's Work under this Contract, including the Lump Sum, all Allowances, and all unit prices.

9. SERVICE OF NOTICES

All notices, requests, demands, elections, consents, and other communications of any kind which may or must be given under this Contract must be in writing (each, a "Notice"), delivered to the parties as follows:

- A. If to LMDC, to its designated representative at the Site or at the following address:

Lower Manhattan Development Corporation
One Liberty Plaza (165 Broadway) – 20th Floor
New York, New York 10006
Fax: (212) 962-2431
Attention: Luis Mendes
Director of Construction

With a copy to Owner's Representative as follows:

URS Corporation – c/o LMDC
One Liberty Plaza (165 Broadway) – 20th Floor
New York, New York 10006
Fax: (212) 962-2431
Attention: Alan Dietz
Senior Project Manager

B. If to Contractor, at the following address:

[Contractor to Provide]

C. If to Interim Arbitrator, at the following address:

[to be inserted]

Any Notice required by this Contract to be given or made within a specified period of time, or on or before a date certain, shall be deemed given or made only if sent (a) by hand delivery evidenced by written receipt, or (b) by registered mail, return receipt requested, and postage and registry fees prepaid. Delivery "by hand" includes commercial express or courier service or overnight delivery service. All Notices shall be deemed given when received (or the date of attempted delivery if refused).

10. AUTHORIZED REPRESENTATIVES; KEY PERSONNEL

The Contractor, the authorized representatives and the key personnel of the Contractor are identified in Annex "4" attached hereto.

LMDC's authorized representative is Stefan Pryor. LMDC's project manager is Luis Mendes.

Each party shall be protected fully in relying upon, or dealing with, the authorized representatives of the other party. Additional or replacement authorized representatives may be added or replaced by Notice to the other party.

LIST OF PRE-APPROVED SUBCONTRACTORS

The subcontractors of Contractor listed below have been approved by LMDC for Work under this Contract as of the date of signing of this Contract. Any other subcontractors required by Contractor for the Work under this Contract are subject to LMDC's approval pursuant to Article 25 of the General Conditions.

[Names and addresses of subcontractors to be proposed by Contractor and, subject to LMDC's approval, inserted at signing]

SCHEDULE OF VALUES

[To be proposed by Contractor and, subject to LMDC's approval, inserted at signing]

LABOR RATES

[To be proposed by Contractor, and, subject to LMDC's approval, inserted at signing]

AUTHORIZED REPRESENTATIVES; KEY PERSONNEL

[To be proposed by Contractor in Bid Form, and, subject to LMDC's approval, inserted at signing]

CONTRACT ASSUMPTIONS

The following "Contract Assumptions" describe or set forth certain understandings, assumptions, risks, responsibilities, and other matters which Contractor hereby assumes and accepts (and shall assume and accept) as part of Contractor's obligations under the Contract and/or for purposes of this Project within the Lump Sum. These Contract Assumptions are intended to supplement, and not to limit, other provisions of the Contract dealing with the same or similar matters, so that all provisions of the Contract shall be complementary and cumulative (and none exclusive):

I. HAZARDOUS MATERIALS

Various studies of contamination in and on the Building have been performed by LMDC and others including the September 14, 2004 Initial Building Characterization Study Report¹ and the Supplemental Characterizations² published in February 2005 (collectively, "LMDC Studies"). These LMDC Studies analyzed for five COPCs designated by the United States Environmental Protection Agency ("EPA") as being associated with WTC dust (asbestos, dioxins, lead, polycyclic aromatic hydrocarbons ("PAHs"), and crystalline silica), as well as other contaminants suspected of being present in the Building, including polychlorinated biphenyls ("PCBs") and heavy metals (barium, beryllium, cadmium, chromium, copper, manganese, mercury, nickel, and zinc).

As required by applicable Legal Requirements, all interior cleaning and removal will be conducted under containment and negative pressure which will be maintained in each work area until air clearance sampling demonstrates that elevated levels of asbestos and other COPCs do not exist. Additionally, all porous deconstruction waste generated prior to successful air clearance sampling will be handled, packaged, transported, and disposed of, at a minimum, as asbestos waste in properly permitted facilities.

- A. Contractor understands and acknowledges that the Building currently contains and/or may contain Hazardous Materials requiring remediation, handling, removal, transportation and/or disposal under applicable Legal Requirements and hazardous levels of various contaminants, including, but not limited to, ACM, silica, polycyclic aromatic hydrocarbons, polynuclear aromatic hydrocarbons, dioxin, polychlorinated biphenyls, barium, beryllium, cadmium, chromium, copper, lead, manganese, nickel, zinc, and mercury.
- B. LMDC makes no representations as to potential health or exposure hazards present at the Site, the Building and/or the subsurface conditions at the Site; and Contractor assumes responsibility for the same.

¹ 130 Liberty Street Initial Building Characterization Study Report, The Louis Berger Group, Inc., September 14, 2004.

² 130 Liberty Street Supplemental Characterizations, TRC Solutions Inc., issued in February of 2005 as multiple reports.

- C. All Work regarding ACM and/or other Hazardous Materials now known to be present (or hereafter discovered) in, on, or about the interior and exterior of the Building, is included in the Contract Documents. Because Contractor accepts and assumes the risk of, and the obligation to remediate, handle, remove, transport, and/or dispose in compliance with Legal Requirements, all ACM and other Hazardous Materials in, on or about the Building (whether currently known or unknown, and whether or not any estimated quantities and amounts or locations of such ACM or Hazardous Materials are correct or incorrect), Contractor shall not be entitled to any Extra Payment or other additional compensation by reason of ACM or other Hazardous Materials or any Work or matters pertaining thereto; and, for the avoidance of doubt, no increase in the Lump Sum shall be requested by Contractor or provided by LMDC by reason of any ACM and/or other Hazardous Materials or any types, locations, or amounts thereof, or any matter pertaining thereto (except, however, for Non-ACM Building Component HazMat which may involve Extra Work in accordance with the Contract).
- D. LMDC has no obligation (a) to obtain, conduct, and/or pay for any further or supplemental characterization of the Building or of ACM or other Hazardous Materials in, on, or about the Building, or any other monitoring, testing, or inspections of any kind which may be required for the Contract Documents or otherwise or (b) to perform any Work under the Contract Documents or otherwise. Any and all such matters are Contractor's sole and exclusive responsibility. All costs of waste characterization, sampling, testing, handling, removal and/or demolition, as required by RCRA or other Legal Requirements, are included in the Lump Sum. Sampling and analysis required by applicable Legal Requirements as well as sampling and analysis for certain COPCs as defined under the Contract Documents are also included within the Lump Sum.
- E. Contractor assumes the risk of any and all potential ACM, Hazardous Materials, or COPC excursions or exceedances of target or trigger levels set forth in the Deconstruction Plan occurring during this Project, and their impacts during the Project, whether by delay or otherwise. Also, Contractor is responsible for any delays and costs related to failure to meet clearance levels for aggressive air sampling and steps required to clean and retest or otherwise remedy failures.
- F. Contractor assumes the risk of all delays or extended schedules caused by waste characterization sampling. Contractor assumes the risk of delays and costs due to testing of waste materials prior to shipment of said materials from the Project site.
- G. COPC medical monitoring will be conducted for ACM, mercury, cadmium, arsenic, and lead or other Hazardous Materials as otherwise may be required by Legal Requirements at Contractor's sole cost and expense.

II. BUILDING CONDITIONS

On September 11, 2001, the Building was severely damaged when debris from the WTC broke approximately 1,500 windows and cut a fifteen story gash in the north façade of the Building

("Gash Area"). In addition, a combination of soot, dust, dirt, debris, and contaminants settled in and on the Building. Since September 11, 2001, the Building has been unoccupied. The Gash Area and broken windows exposed the interior of the Building to the elements, which may have caused some further impacts after the initial exposures and events of September 11, 2001.

Subsequent to September 11, 2001, certain operations were undertaken by the then-owner Deutsche Bank to partially clear debris from the plaza, lobby, and interior spaces in the Gash Area. The immediate Gash Area was partially cleaned to permit the construction of columns, beams, and floor decks to stabilize the Gash Area. The majority of the office furniture in the Building was removed.

- A. Contractor accepts all conditions in the Building (including utility lines, pipes, conduits, fuel lines, ducts, and other installations embedded within the Building structure) and otherwise at the Site, whether or not such conditions were foreseeable, as they exist or may eventually be found to exist, and in whatever condition same may exist, and warrants and agrees that Contractor can and will perform the Contract under such conditions and that all materials, equipment, labor and other facilities required because of any such conditions (physical or otherwise) shall be wholly at Contractor's own cost and expense, notwithstanding anything to the contrary in the Contract Documents, express or implied (except for Non-ACM Building Component HazMat which may involve Extra Work in accordance with the Contract).
- B. Contractor accepts and assumes the risk of locating, dealing with, and removing any and all Building Contents and/or other conditions in the Building.
- C. Contractor assumes the risk of any materials or parts of the Building falling or breaking off from the Building, whether due to nature, casualty, deterioration, time or otherwise. The Lump Sum includes all costs and expenses of Contractor in taking whatever measures (temporary or otherwise) are required for Contractor to contain and/or repair materials or parts of the Building at risk of falling from the Building and to protect persons and property from any resulting harm or damage, all of which shall be Contractor's sole responsibility. If as a result of a casualty loss or otherwise, whether before or during deconstruction Work, any repairs or other needed measures (temporary or otherwise) are needed with respect to the Building to protect persons or property from harm or otherwise to enable the Work to proceed, Contractor will make whatever repairs or take whatever measures are required, and all costs of the same shall be within the Lump Sum; and LMDC will not be obligated to carry insurance for such purposes. For purposes of the foregoing, the exterior scaffolding will be deemed part of the Building for all purposes after Contractor has accepted the same pursuant to the Contract Documents.
- D. After Contractor accepts the scaffolding, Contractor shall be responsible for all costs of elevator operation and maintenance, provided, however, that LMDC makes no representations as to any condition, usability, or adequacy of the foregoing for the Contractor's purposes.

III. ENGINEERING, PLANNING, PERMITS

- A. Contractor shall be responsible for planning, engineering and preparing Contractor's Implementation Plan so as to conform with the requirements of the Contract Documents and all Legal Requirements (including the Variance). Contractor shall be responsible, also, for obtaining all other approvals, permits and authorizations from every Governmental Authority necessary for planning, engineering and preparation of Contractor's Implementation Plan, and shall redraft and resubmit Contractor's Implementation Plan until all such approvals, permits and authorizations are obtained. Contractor agrees that LMDC shall have no duty to obtain any approval, permit, or authorization for or on behalf of Contractor for Contractor's Implementation Plan. Contractor accepts the risk of all delays and costs associated with obtaining any and all such approvals, permits or authorizations (subject to extensions of time for any Excusable Delays in accordance with the terms and conditions of the Contract).
- B. In addition to the foregoing, Contractor shall be responsible at Contractor's expense for filing and/or obtaining all approvals, permits and authorizations (including the ACP-7) from every Governmental Authority necessary for the planning, performance, and completion of the Work. Contractor agrees that LMDC shall have no duty to obtain any approval, permit, or authorization for or on behalf of Contractor or the Project. Contractor accepts the risk of all delays and costs associated with obtaining any and all such approvals, permits or authorizations (subject to extensions of time for any Excusable Delays upon and subject to the terms and conditions of the Contract).
- C. No requests for any variance in Legal Requirements necessary or desirable to implement the Work or otherwise may be requested by the Contractor without the prior written approval of the LMDC. LMDC has the sole and exclusive authority to determine whether to request any variance and to determine the scope and nature of any such variance requests. LMDC is under no obligation to request any variance and there shall be no increase in the Lump Sum as a result of any variance or as a result of LMDC's decision not to request any variance.

IV. COORDINATION/ DELAYS

- A. Contractor is responsible for any and all delays related to failure to sufficiently coordinate with LMDC's other contractors or consultants regarding the Project, and/or for failure to sufficiently coordinate the work of Contractor's subcontractors and consultants.

These Contract Assumptions shall govern in the event of any inconsistencies with the Specifications or any other Contract Documents, notwithstanding anything to the contrary, express or implied, in the Specifications or any other Contract Documents.

SCOPE OF WORK FOR DECONSTRUCTION CONTRACTOR

[attached]

APPROVED BID FORM

[To be inserted upon approval by LMDC at signing of Trade Agreement]